

Tab 3	SB 1106 by Berman (CO-INTRODUCERS) Book ; (Similar to H 00781) Domestic Violence and Parental Responsibility Determinations				
798132	A	S	CF, Berman	Delete L.39 - 403:	01/14 10:45 AM

Tab 4	SB 1240 by Harrell ; (Identical to H 00899) Mental Health of Students				
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Tab 5	SPB 7034 by CF ; Child Welfare				
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CHILDREN, FAMILIES, AND ELDER AFFAIRS

Senator Garcia, Chair
Senator Book, Vice Chair

MEETING DATE: Tuesday, January 18, 2022
TIME: 11:00 a.m.—12:30 p.m.
PLACE: *Mallory Horne Committee Room, 37 Senate Building*

MEMBERS: Senator Garcia, Chair; Senator Book, Vice Chair; Senators Albritton, Brodeur, Harrell, Rouson, Torres, and Wright

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	Presentation on the Domestic Violence Program and an update on SB 606 (2021) by DaMonica Smith, Director of Domestic Violence Programs, Department of Children and Families		
2	Presentation by the Partnership to End Domestic Violence		
3	SB 1106 Berman (Similar H 781)	Domestic Violence and Parental Responsibility Determinations; Requiring a court to order shared parental responsibility if it is found to be in the best interests of the child based on certain factors; providing that clear and convincing evidence of certain conduct creates a rebuttable presumption that shared parental responsibility is not in the best interests of the child; requiring the court to consider specified time-sharing factors when developing the time-sharing schedule if such presumption is rebutted, etc.	CF 01/18/2022 JU RC
4	SB 1240 Harrell (Identical H 899)	Mental Health of Students; Revising data the Department of Children and Families is required to analyze when creating its annual report on the initiation of certain involuntary examinations; requiring charter schools to be in compliance with laws relating to reporting involuntary examinations; requiring the Department of Education, by a specified date, to share with the Department of Children and Families data received from school districts relating to involuntary examinations; revising requirements for plans relating to mental health assistance allocations, etc.	CF 01/18/2022 ED RC

(Preliminary Draft Available - final draft will be made available at least 48 hours prior to the meeting)

COMMITTEE MEETING EXPANDED AGENDA

Children, Families, and Elder Affairs

Tuesday, January 18, 2022, 11:00 a.m.—12:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
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5	SPB 7034	Child Welfare; Expressing legislative intent to revise laws relating to the welfare of children in this state, etc.	
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Other Related Meeting Documents

By Senator Berman

31-00940-22

20221106__

1 A bill to be entitled
2 An act relating to domestic violence and parental
3 responsibility determinations; amending s. 61.046,
4 F.S.; defining the term "child"; amending s. 61.13,
5 F.S.; requiring a court to order shared parental
6 responsibility if it is found to be in the best
7 interests of the child based on certain factors;
8 providing that clear and convincing evidence of
9 certain conduct creates a rebuttable presumption that
10 shared parental responsibility is not in the best
11 interests of the child; authorizing a parent to rebut
12 such presumption if specified criteria are met;
13 requiring the court to consider specified time-sharing
14 factors when developing the time-sharing schedule if
15 such presumption is rebutted; authorizing the court to
16 order sole parental responsibility to one parent with
17 specified time-sharing arrangements under certain
18 circumstances; deleting a requirement that the court
19 consider certain evidence regardless of whether there
20 is a conviction; revising factors the court must
21 consider when determining the best interests of the
22 child for purposes of parental responsibility,
23 parenting plans, and time-sharing schedules; making
24 technical and conforming changes; amending s.
25 414.0252, F.S.; conforming provisions to changes made
26 by the act; amending s. 741.28, F.S.; defining the
27 term "coercive control"; revising the definition of
28 the term "domestic violence"; amending s. 741.30,
29 F.S.; providing that the instructions for certain

31-00940-22

20221106__

30 protective injunction petition forms must contain
31 specified information; revising requirements for the
32 form for a petition for injunction for protection
33 against domestic violence; amending ss. 921.0024,
34 943.0584, and 943.171, F.S.; conforming cross-
35 references; providing an effective date.
36

37 Be It Enacted by the Legislature of the State of Florida:
38

39 Section 1. Present subsections (2) through (23) of section
40 61.046, Florida Statutes, are redesignated as subsections (3)
41 through (24), respectively, and a new subsection (2) is added to
42 that section, to read:

43 61.046 Definitions.—As used in this chapter, the term:
44 (2) "Child" has the same meaning as in s. 39.01(11).

45 Section 2. Present paragraph (t) of subsection (3) of
46 section 61.13, Florida Statutes, is redesignated as paragraph
47 (u), new paragraphs (s) and (t) are added to that subsection,
48 and paragraph (c) of subsection (2) and present paragraph (m) of
49 subsection (3) are amended, to read:

50 61.13 Support of children; parenting and time-sharing;
51 powers of court.—

52 (2)

53 (c) The court shall determine all matters relating to
54 parenting and time-sharing of each ~~minor~~ child of the parties in
55 accordance with the best interests of the child and in
56 accordance with the Uniform Child Custody Jurisdiction and
57 Enforcement Act, except that modification of a parenting plan
58 and time-sharing schedule requires a showing of a substantial,

31-00940-22

20221106__

59 material, and unanticipated change of circumstances.

60 1. It is the public policy of this state that each ~~minor~~
61 child has frequent and continuing contact with both parents
62 after the parents separate or the marriage of the parties is
63 dissolved and to encourage parents to share the rights and
64 responsibilities, and joys, of childrearing. Except as otherwise
65 provided in this paragraph, there is no presumption for or
66 against the father or mother of the child or for or against any
67 specific time-sharing schedule when creating or modifying the
68 parenting plan of the child.

69 2. The court shall order that the parental responsibility
70 for a ~~minor~~ child be shared by both parents if determined to be
71 in the best interests of the child based on reasonable factors,
72 including, but not limited to, the time-sharing factors in
73 subsection (3), unless the court finds that shared parental
74 responsibility would be detrimental to the child. ~~There is~~ The
75 ~~following evidence creates~~ a rebuttable presumption that shared
76 parental responsibility is not in the best interests of the
77 child and would be detrimental ~~of detriment~~ to the child if it
78 is proven by clear and convincing evidence that:

79 a. A parent has been convicted of a misdemeanor of the
80 first degree or higher involving domestic violence, as defined
81 in s. 741.28 and chapter 775;

82 b. A parent meets the criteria of s. 39.806(1)(d); ~~or~~

83 c. A parent has been convicted of or had adjudication
84 withheld for an offense enumerated in s. 943.0435(1)(h)1.a., and
85 at the time of the offense:

86 (I) The parent was 18 years of age or older.

87 (II) The victim was under 18 years of age or the parent

31-00940-22

20221106__

88 believed the victim to be under 18 years of age;

89 d. A parent or child has reasonable cause to believe he or
90 she is in imminent danger of becoming a victim of domestic
91 violence, as defined in s. 741.28, caused by the other parent,
92 upon a review of all relevant factors, including, but not
93 limited to, the factors in s. 741.30(6)(b); or

94 e. There is alleged domestic violence as defined in s.
95 741.28; sexual violence as defined in s. 784.046(1)(c); child
96 abuse as defined in s. 39.01(2); child abandonment as defined in
97 s. 39.01(1); or child neglect as defined in s. 39.01(50) by a
98 parent, regardless of whether a cause of action has been brought
99 or is currently pending in the court.

100
101 A parent may rebut the presumption that shared parental
102 responsibility is not in the best interests of the child upon a
103 specific finding in writing by the court that the parent does
104 not pose a significant risk of harm to the child and that time-
105 sharing is in the best interests of the child. If the
106 presumption is rebutted, the court must consider all time-
107 sharing factors in subsection (3) when developing the time-
108 sharing schedule.

109 3. If the presumption is not rebutted after the offending
110 ~~convicted~~ parent is advised by the court that the presumption
111 exists, shared parental responsibility, including time-sharing
112 with the child, and decisions made regarding the child, may not
113 be granted to the offending ~~convicted~~ parent. However, the
114 offending ~~convicted~~ parent is not relieved of any obligation to
115 provide financial support.

116 4. If the court determines that shared parental

31-00940-22

20221106__

117 responsibility would be detrimental to the child based on
118 factors other than those in subparagraph 2., it may order sole
119 parental responsibility for the child to one parent and make
120 such arrangements for time-sharing as specified in the parenting
121 plan that as will best protect the child or parent, including,
122 but not limited to, supervised visitation by a third party at
123 the expense of the parent without sole parental responsibility
124 or a designated location at which to pick up and drop off the
125 child ~~abused spouse from further harm. Whether or not there is a~~
126 ~~conviction of any offense of domestic violence or child abuse or~~
127 ~~the existence of an injunction for protection against domestic~~
128 ~~violence, the court shall consider evidence of domestic violence~~
129 ~~or child abuse as evidence of detriment to the child.~~

130 ~~5.3.~~ In ordering shared parental responsibility, the court
131 may consider the expressed desires of the parents and may grant
132 to one party the ultimate responsibility over specific aspects
133 of the child's welfare or may divide those responsibilities
134 between the parties based on the best interests of the child.
135 Areas of responsibility may include education, health care, and
136 any other responsibilities that the court finds unique to a
137 particular family.

138 ~~6.4.~~ The court shall order sole parental responsibility for
139 a ~~minor~~ child to one parent, with or without time-sharing with
140 the other parent if it is in the best interests of the ~~minor~~
141 child.

142 ~~7.5.~~ There is a rebuttable presumption against granting
143 time-sharing with a ~~minor~~ child if a parent has been convicted
144 of or had adjudication withheld for an offense enumerated in s.
145 943.0435(1)(h)1.a., and at the time of the offense:

31-00940-22

20221106__

146 a. The parent was 18 years of age or older.

147 b. The victim was under 18 years of age or the parent
148 believed the victim to be under 18 years of age.

149
150 A parent may rebut the presumption upon a specific finding in
151 writing by the court that the parent does not pose a ~~poses no~~
152 significant risk of harm to the child and that time-sharing is
153 in the best interests of the ~~minor~~ child. If the presumption is
154 rebutted, the court must ~~shall~~ consider all time-sharing factors
155 in subsection (3) when developing a time-sharing schedule.

156 ~~8.6.~~ Access to records and information pertaining to a
157 ~~minor~~ child, including, but not limited to, medical, dental, and
158 school records, may not be denied to either parent. Full rights
159 under this subparagraph apply to either parent unless a court
160 order specifically revokes these rights, including any
161 restrictions on these rights as provided in a domestic violence
162 injunction. A parent having rights under this subparagraph has
163 the same rights upon request as to form, substance, and manner
164 of access as are available to the other parent of a child,
165 including, without limitation, the right to in-person
166 communication with medical, dental, and education providers.

167 (3) For purposes of establishing or modifying parental
168 responsibility and creating, developing, approving, or modifying
169 a parenting plan, including a time-sharing schedule, which
170 governs each parent's relationship with his or her ~~minor~~ child
171 and the relationship between each parent with regard to his or
172 her ~~minor~~ child, the best interest of the child must ~~shall~~ be
173 the primary consideration. A determination of parental
174 responsibility, a parenting plan, or a time-sharing schedule may

31-00940-22

20221106__

175 not be modified without a showing of a substantial, material,
176 and unanticipated change in circumstances and a determination
177 that the modification is in the best interests of the child.
178 Determination of the best interests of the child must ~~shall~~ be
179 made by evaluating all of the factors affecting the welfare and
180 interests of the particular ~~minor~~ child and the circumstances of
181 that family, including, but not limited to:

182 ~~(m) Evidence of domestic violence, sexual violence, child~~
183 ~~abuse, child abandonment, or child neglect, regardless of~~
184 ~~whether a prior or pending action relating to those issues has~~
185 ~~been brought. If the court accepts evidence of prior or pending~~
186 ~~actions regarding domestic violence, sexual violence, child~~
187 ~~abuse, child abandonment, or child neglect, the court must~~
188 ~~specifically acknowledge in writing that such evidence was~~
189 ~~considered when evaluating the best interests of the child.~~

190 (s) Whether and to what extent the child has developed a
191 relationship with either parent and the nature of any bond that
192 has been established between such parent and the child,
193 including, but not limited to, whether the child has expressed
194 or exhibited behavior that suggests that the child fears for his
195 or her safety or well-being while being in the care of the other
196 parent. Upon the request of one parent, and at that parent's
197 expense, the court may order an independent evaluation by a
198 psychiatrist licensed under chapter 458 or chapter 459 or a
199 psychologist licensed under chapter 490.

200 (t) Clear and convincing evidence that a parent has an
201 improper motive for seeking shared parental responsibility and
202 whether such motive will negatively interfere with that parent's
203 ability to safely and effectively share parental

31-00940-22

20221106__

204 responsibilities.

205 Section 3. Subsection (4) of section 414.0252, Florida
206 Statutes, is amended to read:

207 414.0252 Definitions.—As used in ss. 414.025-414.55, the
208 term:

209 (4) "Domestic violence" means coercive control or any
210 assault, aggravated assault, battery, aggravated battery, sexual
211 assault, sexual battery, stalking, aggravated stalking,
212 kidnapping, false imprisonment, or other ~~any~~ criminal offense
213 that results in the physical injury or death of one family or
214 household member by another.

215 Section 4. Present subsections (1) through (4) of section
216 741.28, Florida Statutes, are redesignated as subsections (2)
217 through (5), respectively, a new subsection (1) is added to that
218 section, and present subsection (2) of that section is amended,
219 to read:

220 741.28 Domestic violence; definitions.—As used in ss.
221 741.28-741.31:

222 (1) "Coercive control" means a pattern of threatening,
223 humiliating, or intimidating actions by one family or household
224 member against another family or household member, which actions
225 are used to harm, punish, or frighten the family or household
226 member and make him or her dependent on the other family or
227 household member by isolating, exploiting, or regulating him or
228 her. The term includes, but is not limited to:

229 (a) Isolating the family or household member from his or
230 her friends or family.

231 (b) Controlling the amount of money accessible to the
232 family or household member and how he or she spends such money.

31-00940-22

20221106__

233 (c) Monitoring the family or household member's activities,
234 communications, or movements.

235 (d) Frequently engaging in conduct meant to demean,
236 degrade, dehumanize, or embarrass the family or household
237 member.

238 (e) Threatening to cause physical harm to or kill a child
239 or relative of the family or household member.

240 (f) Threatening to publish false information or make false
241 reports to a law enforcement officer or other law enforcement
242 personnel about the family or household member.

243 (g) Damaging the family or household member's property,
244 household goods, or personal effects.

245 (h) Forcing the family or household member to participate
246 in criminal activity.

247 (3)(2) "Domestic violence" means coercive control or any
248 assault, aggravated assault, battery, aggravated battery, sexual
249 assault, sexual battery, stalking, aggravated stalking,
250 kidnapping, false imprisonment, or other ~~any~~ criminal offense
251 resulting in physical injury or death of one family or household
252 member by another family or household member.

253 Section 5. Paragraph (c) of subsection (2) and paragraph
254 (b) of subsection (3) of section 741.30, Florida Statutes, are
255 amended to read:

256 741.30 Domestic violence; injunction; powers and duties of
257 court and clerk; petition; notice and hearing; temporary
258 injunction; issuance of injunction; statewide verification
259 system; enforcement; public records exemption.-

260 (2)

261 (c)1. The clerk of the court shall assist petitioners in

31-00940-22

20221106__

262 seeking both injunctions for protection against domestic
263 violence and enforcement for a violation thereof as specified in
264 this section.

265 2. All clerks' offices shall provide simplified petition
266 forms for the injunction, any modifications, and the enforcement
267 thereof, including instructions for completion. The instructions
268 must inform the petitioner that if he or she intends to seek an
269 injunction that prohibits or limits time-sharing between the
270 respondent and the child of the parties, he or she must state
271 with specificity details regarding the circumstances that give
272 rise to the petitioner fearing that the respondent imminently
273 will abuse, remove, or hide the child from the petitioner.

274 3. The clerk of the court shall advise petitioners of the
275 opportunity to apply for a certificate of indigence in lieu of
276 prepayment for the cost of the filing fee, as provided in
277 paragraph (a).

278 4. The clerk of the court shall ensure the petitioner's
279 privacy to the extent practical while completing the forms for
280 injunctions for protection against domestic violence.

281 5. The clerk of the court shall provide petitioners with a
282 minimum of two certified copies of the order of injunction, one
283 of which is serviceable and will inform the petitioner of the
284 process for service and enforcement.

285 6. Clerks of court and appropriate staff in each county
286 shall receive training in the effective assistance of
287 petitioners as provided or approved by the Florida Association
288 of Court Clerks.

289 7. The clerk of the court in each county shall make
290 available informational brochures on domestic violence when such

31-00940-22

20221106__

291 brochures are provided by local certified domestic violence
292 centers.

293 8. The clerk of the court in each county shall distribute a
294 statewide uniform informational brochure to petitioners at the
295 time of filing for an injunction for protection against domestic
296 or repeat violence when such brochures become available. The
297 brochure must include information about the effect of giving the
298 court false information about domestic violence.

299 (3)

300 (b) The sworn petition shall be in substantially the
301 following form:

302

303 PETITION FOR
304 INJUNCTION FOR PROTECTION
305 AGAINST DOMESTIC VIOLENCE
306

307 Before me, the undersigned authority, personally appeared
308 Petitioner ...(Name)..., who has been sworn and says that the
309 following statements are true:

310 (a) Petitioner resides at: ...(address)...

311 (Petitioner may furnish address to the court in a separate
312 confidential filing if, for safety reasons, the petitioner
313 requires the location of the current residence to be
314 confidential.)

315 (b) Respondent resides at: ...(last known address)...

316 (c) Respondent's last known place of employment: ...(name
317 of business and address)...

318 (d) Physical description of respondent:.....
319 Race.....

31-00940-22

20221106__

320 Sex.....

321 Date of birth.....

322 Height.....

323 Weight.....

324 Eye color.....

325 Hair color.....

326 Distinguishing marks or scars.....

327 (e) Aliases of respondent:.....

328 (f) Respondent is the spouse or former spouse of the

329 petitioner or is any other person related by blood or marriage

330 to the petitioner or is any other person who is or was residing

331 within a single dwelling unit with the petitioner, as if a

332 family, or is a person with whom the petitioner has a child in

333 common, regardless of whether the petitioner and respondent are

334 or were married or residing together, as if a family.

335 (g) The following describes any other cause of action

336 currently pending between the petitioner and respondent:.....

337

338 The petitioner should also describe any previous or pending

339 attempts by the petitioner to obtain an injunction for

340 protection against domestic violence in this or any other

341 circuit, and the results of that attempt:.....

342

343 Case numbers should be included if available.

344 (h) Petitioner is either a victim of domestic violence or

345 has reasonable cause to believe he or she is in imminent danger

346 of becoming a victim of domestic violence because respondent

347 has: ... (mark all sections that apply and describe in the spaces

348 below the incidents of violence or threats of violence,

31-00940-22

20221106__

349 specifying when and where they occurred, including, but not
350 limited to, locations such as a home, school, place of
351 employment, or visitation exchange)...

352
353

354committed or threatened to commit domestic violence
355 defined in s. 741.28, Florida Statutes, as coercive control or
356 any assault, aggravated assault, battery, aggravated battery,
357 sexual assault, sexual battery, stalking, aggravated stalking,
358 kidnapping, false imprisonment, or other ~~any~~ criminal offense
359 resulting in physical injury or death of one family or household
360 member by another. With the exception of persons who are parents
361 of a child in common, the family or household members must be
362 currently residing or have in the past resided together in the
363 same single dwelling unit.

364previously threatened, harassed, stalked, or physically
365 abused the petitioner.

366attempted to harm the petitioner or family members or
367 individuals closely associated with the petitioner.

368threatened to conceal, kidnap, or harm the petitioner's
369 child or children (provide details in paragraph (i) below).

370intentionally injured or killed a family pet.

371used, or has threatened to use, against the petitioner
372 any weapons such as guns or knives.

373physically restrained the petitioner from leaving the
374 home or calling law enforcement.

375a criminal history involving violence or the threat of
376 violence (if known).

377another order of protection issued against him or her

31-00940-22

20221106__

378 previously or from another jurisdiction (if known).

379destroyed personal property, including, but not limited
380 to, telephones or other communication equipment, clothing, or
381 other items belonging to the petitioner.

382engaged in any other behavior or conduct that leads the
383 petitioner to have reasonable cause to believe he or she is in
384 imminent danger of becoming a victim of domestic violence.

385 (i) Petitioner alleges the following additional specific
386 facts: ...(mark appropriate sections)...

387A ~~minor~~ child or ~~minor~~ children reside with the
388 petitioner whose names and ages are as follows:

389
390Petitioner needs the exclusive use and possession of
391 the dwelling that the parties share.

392Petitioner is unable to obtain safe alternative housing
393 because:

394
395Petitioner genuinely fears that respondent imminently
396 will abuse, remove, or hide the ~~minor~~ child or children from
397 petitioner because: ...(describe any actions taken or threats
398 made by the respondent to cause such fear, including where and
399 when the actions were taken or the threats were made, directly
400 or indirectly; whether and how the respondent failed to comply
401 with an existing parenting plan or time-sharing schedule; and
402 any actions taken or comments made by the child or children
403 which suggest the respondent has caused the child or children to
404 fear for his or her or their safety)...

405
406 (j) Petitioner genuinely fears imminent domestic violence

31-00940-22

20221106__

407 by respondent.

408 (k) Petitioner seeks an injunction: ...(mark appropriate
409 section or sections)...

410Immediately restraining the respondent from committing
411 any acts of domestic violence.

412Restraining the respondent from committing any acts of
413 domestic violence.

414Awarding to the petitioner the temporary exclusive use
415 and possession of the dwelling that the parties share or
416 excluding the respondent from the residence of the petitioner.

417Providing a temporary parenting plan, including a
418 temporary time-sharing schedule, with regard to the ~~minor~~ child
419 or children of the parties which might involve ~~prohibiting or~~
420 limiting time-sharing or requiring that it be supervised by a
421 third party.

422Providing a temporary time-sharing schedule that
423 prohibits time-sharing between the respondent and the child or
424 children of the parties.

425Establishing temporary support for the ~~minor~~ child or
426 children or the petitioner.

427Directing the respondent to participate in a batterers'
428 intervention program.

429Providing any terms the court deems necessary for the
430 protection of a victim of domestic violence, or any ~~minor~~
431 children of the victim, including any injunctions or directives
432 to law enforcement agencies.

433 Section 6. Paragraph (b) of subsection (1) of section
434 921.0024, Florida Statutes, is amended to read:

435 921.0024 Criminal Punishment Code; worksheet computations;

31-00940-22

20221106__

436 scoresheets.-

437 (1)

438 (b) WORKSHEET KEY:

439

440 Legal status points are assessed when any form of legal status
441 existed at the time the offender committed an offense before the
442 court for sentencing. Four (4) sentence points are assessed for
443 an offender's legal status.

444

445 Community sanction violation points are assessed when a
446 community sanction violation is before the court for sentencing.
447 Six (6) sentence points are assessed for each community sanction
448 violation and each successive community sanction violation,
449 unless any of the following apply:

450 1. If the community sanction violation includes a new
451 felony conviction before the sentencing court, twelve (12)
452 community sanction violation points are assessed for the
453 violation, and for each successive community sanction violation
454 involving a new felony conviction.

455 2. If the community sanction violation is committed by a
456 violent felony offender of special concern as defined in s.
457 948.06:

458 a. Twelve (12) community sanction violation points are
459 assessed for the violation and for each successive violation of
460 felony probation or community control where:

461 I. The violation does not include a new felony conviction;
462 and

463 II. The community sanction violation is not based solely on
464 the probationer or offender's failure to pay costs or fines or

31-00940-22

20221106__

465 make restitution payments.

466 b. Twenty-four (24) community sanction violation points are
467 assessed for the violation and for each successive violation of
468 felony probation or community control where the violation
469 includes a new felony conviction.

470

471 Multiple counts of community sanction violations before the
472 sentencing court shall not be a basis for multiplying the
473 assessment of community sanction violation points.

474

475 Prior serious felony points: If the offender has a primary
476 offense or any additional offense ranked in level 8, level 9, or
477 level 10, and one or more prior serious felonies, a single
478 assessment of thirty (30) points shall be added. For purposes of
479 this section, a prior serious felony is an offense in the
480 offender's prior record that is ranked in level 8, level 9, or
481 level 10 under s. 921.0022 or s. 921.0023 and for which the
482 offender is serving a sentence of confinement, supervision, or
483 other sanction or for which the offender's date of release from
484 confinement, supervision, or other sanction, whichever is later,
485 is within 3 years before the date the primary offense or any
486 additional offense was committed.

487

488 Prior capital felony points: If the offender has one or more
489 prior capital felonies in the offender's criminal record, points
490 shall be added to the subtotal sentence points of the offender
491 equal to twice the number of points the offender receives for
492 the primary offense and any additional offense. A prior capital
493 felony in the offender's criminal record is a previous capital

31-00940-22

20221106__

494 felony offense for which the offender has entered a plea of nolo
495 contendere or guilty or has been found guilty; or a felony in
496 another jurisdiction which is a capital felony in that
497 jurisdiction, or would be a capital felony if the offense were
498 committed in this state.

499
500 Possession of a firearm, semiautomatic firearm, or machine gun:
501 If the offender is convicted of committing or attempting to
502 commit any felony other than those enumerated in s. 775.087(2)
503 while having in his or her possession: a firearm as defined in
504 s. 790.001(6), an additional eighteen (18) sentence points are
505 assessed; or if the offender is convicted of committing or
506 attempting to commit any felony other than those enumerated in
507 s. 775.087(3) while having in his or her possession a
508 semiautomatic firearm as defined in s. 775.087(3) or a machine
509 gun as defined in s. 790.001(9), an additional twenty-five (25)
510 sentence points are assessed.

511
512 Sentencing multipliers:

513
514 Drug trafficking: If the primary offense is drug trafficking
515 under s. 893.135, the subtotal sentence points are multiplied,
516 at the discretion of the court, for a level 7 or level 8
517 offense, by 1.5. The state attorney may move the sentencing
518 court to reduce or suspend the sentence of a person convicted of
519 a level 7 or level 8 offense, if the offender provides
520 substantial assistance as described in s. 893.135(4).

521
522 Law enforcement protection: If the primary offense is a

31-00940-22

20221106__

523 violation of the Law Enforcement Protection Act under s.
524 775.0823(2), (3), or (4), the subtotal sentence points are
525 multiplied by 2.5. If the primary offense is a violation of s.
526 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points
527 are multiplied by 2.0. If the primary offense is a violation of
528 s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement
529 Protection Act under s. 775.0823(10) or (11), the subtotal
530 sentence points are multiplied by 1.5.

531
532 Grand theft of a motor vehicle: If the primary offense is grand
533 theft of the third degree involving a motor vehicle and in the
534 offender's prior record, there are three or more grand thefts of
535 the third degree involving a motor vehicle, the subtotal
536 sentence points are multiplied by 1.5.

537
538 Offense related to a criminal gang: If the offender is convicted
539 of the primary offense and committed that offense for the
540 purpose of benefiting, promoting, or furthering the interests of
541 a criminal gang as defined in s. 874.03, the subtotal sentence
542 points are multiplied by 1.5. If applying the multiplier results
543 in the lowest permissible sentence exceeding the statutory
544 maximum sentence for the primary offense under chapter 775, the
545 court may not apply the multiplier and must sentence the
546 defendant to the statutory maximum sentence.

547
548 Domestic violence in the presence of a child: If the offender is
549 convicted of the primary offense and the primary offense is a
550 crime of domestic violence, as defined in s. 741.28, which was
551 committed in the presence of a child under 16 years of age who

31-00940-22

20221106__

552 is a family or household member as defined in s. 741.28 ~~s.~~
553 ~~741.28(3)~~ with the victim or perpetrator, the subtotal sentence
554 points are multiplied by 1.5.

555
556 Adult-on-minor sex offense: If the offender was 18 years of age
557 or older and the victim was younger than 18 years of age at the
558 time the offender committed the primary offense, and if the
559 primary offense was an offense committed on or after October 1,
560 2014, and is a violation of s. 787.01(2) or s. 787.02(2), if the
561 violation involved a victim who was a minor and, in the course
562 of committing that violation, the defendant committed a sexual
563 battery under chapter 794 or a lewd act under s. 800.04 or s.
564 847.0135(5) against the minor; s. 787.01(3)(a)2. or 3.; s.
565 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s.
566 800.04; or s. 847.0135(5), the subtotal sentence points are
567 multiplied by 2.0. If applying the multiplier results in the
568 lowest permissible sentence exceeding the statutory maximum
569 sentence for the primary offense under chapter 775, the court
570 may not apply the multiplier and must sentence the defendant to
571 the statutory maximum sentence.

572 Section 7. Paragraph (f) of subsection (2) of section
573 943.0584, Florida Statutes, is amended to read:

574 943.0584 Criminal history records ineligible for court-
575 ordered expunction or court-ordered sealing.—

576 (2) A criminal history record is ineligible for a
577 certificate of eligibility for expunction or a court-ordered
578 expunction pursuant to s. 943.0585 or a certificate of
579 eligibility for sealing or a court-ordered sealing pursuant to
580 s. 943.059 if the record is a conviction for any of the

31-00940-22

20221106__

581 following offenses:

582 (f) Assault or battery, as defined in ss. 784.011 and
583 784.03, respectively, of one family or household member by
584 another family or household member, as defined in s. 741.28 ~~s.~~
585 ~~741.28(3)~~;

586 Section 8. Paragraph (b) of subsection (2) of section
587 943.171, Florida Statutes, is amended to read:

588 943.171 Basic skills training in handling domestic violence
589 cases.—

590 (2) As used in this section, the term:

591 (b) "Household member" has the meaning set forth in s.
592 741.28 ~~s. 741.28(3)~~.

593 Section 9. This act shall take effect July 1, 2022.

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 1106

INTRODUCER: Senator Berman

SUBJECT: Domestic Violence and Parental Responsibility Determinations

DATE: January 14, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Moody	Cox	CF	Pre-meeting
2.			JU	
3.			RC	

I. Summary:

SB 1106 amends provisions relating to domestic violence and parental responsibility. The definition of domestic violence in ss. 414.0252 and 741.28(3), F.S., are amended to include conduct which constitutes coercive control, and coercive control is defined in s. 741.28, F.S.

The bill also requires the instructions for certain injunction forms to inform the petitioner that if he or she intends to request that the court prohibit or limit time-sharing between the respondent and the child, he or she must state with specificity details which have caused the petitioner to fear that the respondent imminently will abuse, remove, or hide the child from the petitioner.

The bill includes several amendments to the template petition for injunction form under s. 741.30(3)(b), F.S., including in summary:

- Incorporates conduct which constitutes coercive control to the definition of domestic violence;
- Informs the petitioner that he or she should provide details regarding any threats to conceal, kidnap, or harm the petitioner's child or children in paragraph (i) of the form;
- Instructs the petitioner to describe any actions taken or threats made by the respondent to cause fear that he or she imminently will abuse, remove, or hide the child from the petitioner; and
- Modifies the list of potential relief that may be sought in the injunction to relocate part of an existing option for relief regarding a temporary time-sharing schedule that prohibits time-sharing between the respondent and the child.

The bill amends provisions relating to shared parental responsibility, rebuttable presumptions, and the best interest factors that the court must consider when establishing or modifying a parenting plan. The bill clarifies that shared parental responsibility must be in best interest of the child. Evidence that establish a rebuttable presumption of detriment to a child under current law also create a rebuttable presumption that shared parental responsibility is not in the child's best

interests if proven by clear and convincing evidence. Two additional circumstances are added to the list of evidence that establish a rebuttable presumption. The bill relocates a provision under current law that provides a presumption may be rebutted upon a specific findings in writing by the court, and also provides the court must consider all time-sharing factors when developing a time-sharing schedule if a presumption is rebutted.

If the court finds that shared parental responsibility would be detrimental to the child based on factors other than that which is established by a rebuttable presumption, the court may order sole parental responsibility and create a time-sharing schedule that will best protect the child or parent, instead of abused spouse, from further harm. The bill suggests specific protections which the court may order to protect the child or parent, such as supervised visitation. The provision under current law that requires the court to consider evidence of domestic violence or child abuse as evidence of detriment to the child even if there has been no conviction or the existence of an injunction is removed in the bill.

One of the best interest factors (i.e. regarding evidence of domestic violence, sexual violence, child abuse, child abandonment, or child neglect) that the court must consider when determining a parenting plan was moved to be a rebuttable presumption of detriment to the child. Two factors have also been added to the list, including, in part, the extent and nature of the relationship between the parent and child, and the motives of the parents to seek shared parental responsibility.

The term “child” is defined in s. 61.046, F.S., to have the same meaning as s. 39.01(11), F.S. Technical amendments are made to the sections included in the bill. Sections 921.0024, 943.0584, and 943.171, F.S., are amended to update cross-references to s. 741.28, F.S.

This bill does not appear to have a fiscal impact on state, county, or municipal governments. See V. Fiscal Impact Statement.

The bill is effective July 1, 2022.

II. Present Situation:

Domestic Violence

Domestic violence is a pattern of behavior, violence, or threats of violence that a person uses to gain power and control over a current or former intimate partner.¹ The use of threats, intimidation, isolation, and using children as pawns are examples of the tactics domestic violence perpetrators use against victims.²

¹ Florida Coalition Against Domestic Violence, *Leading Florida Higher, Lifting Survivors Upward, Florida’s Commitment to Ending Domestic Violence and Saving Lives*, p. 3, available at <https://www.myflfamilies.com/service-programs/domestic-violence/docs/2019%20Annual%20%20Report.pdf> (last visited Jan. 14, 2022).

² *Id.*

Domestic violence harms all family members.³ Family violence harms the victim and presents dangers for immediate family members.⁴ Significant trauma, such as domestic violence, can interfere with brain and skill development of the young child.⁵ A child’s emotional, psychological, or physical development can be harmed if he or she is exposed to violence at a young age.⁶ Children who witness violence are more likely to have difficulty in school, abuse drugs or alcohol, act aggressively, and suffer from depression.⁷

Domestic violence continues to be a widespread issue throughout the United States⁸ and worldwide.⁹ There are several laws which serve to protect victims from domestic violence,¹⁰ including, but not limited to, injunctions and parenting plans.¹¹ Some of these provisions are discussed in more detail below.

Greyson Kessler

The negative impacts of domestic violence on a family and coparenting partners can be illustrated through the case of Greyson Kessler. Greyson was a vibrant, fun-loving and sweet four year old at the time of his death on May 20, 2021 when his father, John Stacey, shot and killed him before committing suicide.¹² This tragic murder-suicide happened after Mr. Stacey sent threatening text messages to, and left abusive voice messages for, Greyson’s mother, Alison Kessler, harassed her, and left a tracker on her car.¹³ For instance, he sent her one text message which stated “You deserve to have your head separated from body, and deserve to die. But I am

³ Seifert, K. *Domestic Violence Harms All Family Members*, Psychology Today, October 30, 2012, available at [Domestic Violence Harms All Family Members | Psychology Today](#) (last visited Jan. 10, 2022) (hereinafter cited as “DV Harms Families”).

⁴ U.S. Department of Justice, Office of Justice Programs, *Family Violence, Special Features*, available at [Family Violence | Overview | Office of Justice Programs \(ojp.gov\)](#) (last visited Jan. 10, 2022) (hereinafter cited as “US DOJ Family Violence”).

⁵ DV Harms Families.

⁶ US DOJ Family Violence.

⁷ *Id.*

⁸ National Conference of State Legislatures (NCSL), *Domestic Violence/Domestic Abuse Definitions and Relationships*, June 13, 2019, available at [Domestic Violence/Domestic Abuse Definitions and Relationships \(ncsl.org\)](#) (last visited Jan. 10, 2022) (hereinafter cited as “NCSL DV”).

⁹ Khan, N. *What Are the Effects of Domestic Violence on the Family and Children*, Better Help, November 11, 2021, available at [Domestic Violence - What Are The Effects Of Domestic Violence On Children? | BetterHelp](#) (last visited Jan. 10, 2022).

¹⁰ NCSL DV.

¹¹ See chs. 61 and 741, F.S.

¹² Scouten, T., *Police Confirm Murder-Suicide In Deaths of Father, 4-Year Old Son Greyson Kessler Hours Before Emergency Pick-Up Order Was Denied*, CBS Miami, May 25, 2021, available at [Police Confirm Murder-Suicide In Deaths Of Father, 4-Year-Old Son Greyson Kessler Hours Before Emergency Pick-Up Order Was Denied – CBS Miami \(cbslocal.com\)](#) (hereinafter cited as “CBS Article”); Baker, K.C., *Fla. Boy, 4, Killed by Dad in Murder-Suicide on Day Mom Asked Court to Keep Father Away From Him*, People, May 25, 2021, available at [Fla. Boy, 4, Killed by Dad in Murder-Suicide on Day Mom Asked Court for Help | PEOPLE.com](#); Wright, M., *Mother Fights to Pass ‘Greyson’s Law’ after Son Killed by Father in Murder-Suicide*, Local10.com, Oct. 13, 2021, available at [Mother fights to pass ‘Greyson’s Law’ after son killed by father in murder-suicide \(local10.com\)](#); Associated Press, *Florida Dad Threatened Mom, Killed Son, Help Came Too Late*, May 25, 2021, available at [Florida dad threatened mom, killed son; help came too late - ABC News \(go.com\)](#) (hereinafter cited as “AP Article”); Perez, A., *After ‘Preventable’ Tragedy, Family Prepares to Bury Boy in Broward*, Local10.com, May 26, 2021, available at [After ‘preventable’ tragedy, family prepares to bury boy in Broward \(local10.com\)](#) (hereinafter cited as “Local10 Article”) (all sites last visited Jan. 10, 2022).

¹³ CBS Article.

not the violent type. God will deal with you.”¹⁴ Ms. Kessler suggested that Mr. Stacey was a member of a cult named “The Moonies” and he had not received treatment or therapy for the post-traumatic stress disorder he experienced from it.¹⁵

Ms. Kessler and Mr. Stacey shared custody of Greyson, and the murder-suicide occurred during his designated time-sharing period.¹⁶ Ms. Kessler filed a petition for domestic violence injunction on May 19, 2021 and, after Greyson missed school on Friday, she filed for an emergency pick up order.¹⁷ After the murder-suicide, unbeknownst to the judge, the court granted the restraining order and denied the request for a pick up order.¹⁸

Domestic Violence Data

Based on data from 2000 to 2018, approximately 26% of women and 27% of men have been subjected to physical or sexual violence from a current or former husband or male intimate partner at least once in their lifetime, totaling approximately 641 to 753 million victims.¹⁹ According to a national study conducted by the Centers for Disease Control and Prevention (CDC), approximately 1 in 4 women and nearly 1 in 10 men have experienced domestic violence acts including sexual violence, physical violence, or stalking in their lifetime.²⁰ The CDC also estimates that over 43 million women and 37 million men have been victims of such domestic violence by intimate partners throughout their lifetime.²¹ The national cost of medical and mental health care services related to domestic violence is estimated to be over \$8 billion annually.²²

In 2019, there were 105,298 crimes of domestic violence reported to the FDLE which resulted in 66,069 arrests.²³ During FY 2019-20, Florida’s certified domestic violence centers²⁴ provided emergency shelter to 13,250 survivors of domestic violence and their children.²⁵ Further,

¹⁴ *Id.*

¹⁵ CBS Article.

¹⁶ Local10 Article.

¹⁷ *Id.*

¹⁸ AP Article.

¹⁹ World Health Organization (WHO) on behalf of the United Nations Inter Agency Working Group on Violence Against Women Estimation and Data, *Violence Against Women Prevalence Estimates, 2018: Executive Summary*,

²⁰ CDC, *The National Intimate Partner and Sexual Violence Survey: 2015 Data Brief – Updated Release*, p. 7, Nov. 2018, available at [The National Intimate Partner and Sexual Violence Survey: 2015 Data Brief — Updated Release \(cdc.gov\)](https://www.cdc.gov/nipsws/2015-data-brief) (last visited Jan. 10, 2022) (hereinafter cited as “CDC Study”).

²¹ *Id.* at pp. 20 & 22.

²² Huecker, M., King, K., & others, *Domestic Violence*. National Center for Biotechnology Information, Aug. 26, 2021, available at [Domestic Violence - StatPearls - NCBI Bookshelf \(nih.gov\)](https://pubmed.ncbi.nlm.nih.gov/34888881/) (last visited Jan. 10, 2022).

²³ The Department of Children and Families (DCF), *Domestic Violence Statistics*, available at [Domestic Violence - Florida Department of Children and Families \(myflfamilies.com\)](https://www.myflfamilies.com/domestic-violence-overview) (last visited Jan. 10, 2022) (hereinafter cited as “Florida DV Statistics”) [citing Florida Department of Law Enforcement (FDLE), *Florida’s County and Jurisdictional Reported Domestic Violence Offenses, 2019*, available at [DV Jurisdiction Offenses 2019.aspx \(state.fl.us\)](https://www.fl.gov/dv-jurisdiction-offenses-2019.aspx), last visited (Jan. 10, 2022)].

²⁴ Section 39.902(2), F.S.; Rule 65H-1.011, F.A.C. provide that domestic violence centers provide services to survivors of domestic violence. Florida has 41 certified domestic violence centers. The certified domestic violence centers provide crisis counseling and support services to victims of domestic violence and their children. Department of Children and Families, *Domestic Violence Overview*, available at <https://www.myflfamilies.com/service-programs/domestic-violence/overview.shtml> (last visited Jan. 14, 2022).

²⁵ *Id.*

advocates developed 153,757 safety plans related to domestic violence cases and provided a total of 233,602 hours of advocacy and counseling services.²⁶

The National Domestic Violence Hotline (NDVH) is available to help by phone, live chat, and text 24 hours per day, 7 days per week.²⁷ The hotline receives more than 24,000 per month.²⁸ Florida contracts with Florida Legal Services, Inc. (FLS) to offer a domestic violence hotline that is available to provide legal advice and referrals for services.²⁹ With federal funding and in collaboration with FLS and Rural Women’s Health Project, a fotonovela has been developed for Spanish-speaking members of rural communities to provide information about the legal hotline services.³⁰ During FY 2019-20, the domestic violence hotline received 73,817 calls from individuals seeking emergency services, information and assistance.³¹

Definitions

Federal law

There are several federal laws which establish protections for domestic violence victims, such as the Violence Against Women Act (VAWA)³² and the Gun Control Act.³³ The VAWA establishes that interstate domestic violence, stalking,³⁴ and interstate violation of protection

²⁶ *Id.*

²⁷ NDVH, *Here for You*, available at [Domestic Violence Support | The National Domestic Violence Hotline \(thehotline.org\)](https://www.thehotline.org) (last visited Jan. 10, 2022).

²⁸ U.S. Department of Health & Human Services, Family and Youth Services Bureau, *The National Domestic Violence Hotline*, available at [The National Domestic Violence Hotline | The Administration for Children and Families \(hhs.gov\)](https://www.hhs.gov) (last visited Jan. 10, 2022).

²⁹ The DCF, *Domestic Violence Legal Hotline*, available at [Domestic Violence - Florida Department of Children and Families \(myflfamilies.com\)](https://myflfamilies.com) (last visited Jan. 10, 2022).

³⁰ *Id.*

³¹ Florida DV Statistics.

³² 18 U.S.C. ch.110A.

³³ 18 U.S.C. § 922(g)(8) and (9).

³⁴ 18 U.S.C. §2261A defines “stalking” as whoever (1) travels in interstate or foreign commerce or is present within the special maritime and territorial jurisdiction of the United States, or enters or leaves Indian country, with the intent to kill, injure, harass, intimidate, or place under surveillance with intent to kill, injure, harass, or intimidate another person, and in the course of, or as a result of, such travel or presence engages in conduct that – (A) places that person in reasonable fear of the death of, or serious bodily injury to – (i) that person; (ii) an immediate family member as defined in section 115) of that person; (iii) a spouse or intimate partner of that person; or (iv) the pet, service animal, emotional support animal, or horse of that person; or (B) causes, attempts to cause, or would be reasonably expected to cause substantial emotional distress to a person described in clause (i), (ii), or (iii) of subparagraph (A); or (2) with the intent to kill, injure, harass, intimidate, or place under surveillance with intent to kill, injure, harass, or intimidate another person, uses the mail, any interactive computer service or electronic communication service or electronic communication system of interstate commerce, or any other facility of interstate or foreign commerce to engage in a course of conduct that – (A) places that person in reasonable fear of the death of or serious bodily injury to a person, a pet, a service animal, an emotional support animal, or a horse described in clause (i), (ii), (iii), or (iv) of paragraph (1)(A); or (B) causes, attempts to cause, or would reasonably expected to cause substantial emotional distress to a person described in clause (i), (ii), or (iii) of paragraph (1)(A). 18 U.S.C. §2266(2) defines “course of conduct” as a pattern of conduct composed of 2 or more acts, evidencing a continuity of purpose. 18 U.S.C. §1365(3) defines “serious bodily injury” as bodily injury which involves – (A) a substantial risk of death; (B) extreme physical pain; (C) protracted and obvious disfigurement; or (D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty. 18 U.S.C. §2266(11) defines “pet” as a domesticated animal, such as a dog, cat, bird, rodent, fish, turtle, or other animal that is kept for pleasure rather than for commercial purposes. 18 U.S.C. §2266(12) defines “emotional support animal” as an animal that is covered by the exclusion specified in s. 5.303 of title 24, Code of Federal Regulations (or a successor regulation), and that is not a service animal. 28 C.F.R. §36.104 defines “service animal” means

order³⁵ are federal offenses. The Gun Control Act provides that possession of a firearm and/or ammunition while subject to a qualifying protection order,³⁶ or possession of firearm and/or ammunition after a conviction of a qualifying misdemeanor crime of domestic violence are criminal offenses.³⁷

18 U.S.C. §2261(b) defines a domestic violence offender as a person who travels in interstate or foreign commerce³⁸ or enters or leaves Indian country³⁹ or is present within special maritime and territorial jurisdiction of the United States with the intent to kill, injure, harass, or intimidate a spouse, intimate partner,⁴⁰ or dating partner, and who, in the course of or as a result of such travel or presence, commits or attempts to commit a crime of violence against that spouse, intimate partner, or dating partner.

34 U.S.C. §12291(8), for purposes of VAWA grant program, domestic violence is defined as felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

H.R. 1620 (2021), the VAWA Reauthorization, which has passed the U.S. House of Representatives, includes an expanded definition of domestic violence for purposes of the

any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.

³⁵ 18 U.S.C. §2262

³⁶ 18 U.S.C. §2261, 2261A, and 2262.

³⁷ 18 U.S.C. §922(g)(8) and (9).

³⁸ 18 U.S.C. §2266(9) states that "travel in interstate or foreign commerce" does not include travel from 1 State to another by an individual who is a member of an Indian tribe and who remains at all times in the territory of the Indian tribe of which the individual is a member.

³⁹ 18 U.S.C. §2266(3) defines "enter or leave Indian country" as leaving the jurisdiction of 1 tribal government and entering the jurisdiction of another tribal government. 18 U.S.C. §2266(4) states that "Indian country" has the same meaning as 18 U.S.C. §1151, which states except as otherwise provided in ss. 1154 and 1156, U.S.C., the term "Indian country" as used in this chapter, means (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

⁴⁰ 18 U.S.C. 2266 states "spouse or intimate partner" includes – (A) for purposes of – (i) sections other than 2261A- (I) a spouse or former spouse of the abuser, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited as a spouse with the abuser; or (II) a person who is or has been in a social relationship of a romantic or intimate nature with the abuser, as determined by the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship; and (ii) section 2261A – (I) a spouse or former spouse of the target of the stalking, a person who shares a child in common with the target of the stalking, and a person who cohabits or has cohabited as a spouse with the target of the stalking; or (II) a person who is or has been in a social relationship of a romantic or intimate nature with the target of the stalking, as determined by the length of the relationship, the type of the relationship, and the frequency of the interaction between the persons involved in the relationship. (B) any other person similarly situated to a spouse who is protected by the domestic or family violence laws of the State or tribal jurisdiction in which the injury occurred or where the victim resides.

VAWA grant program but does not alter the definition of domestic violence offender under 18 U.S.C. §2261(b). The expanded definition, which has not yet been enacted, includes a pattern of behavior involving the use or attempted use of physical, sexual, verbal, psychological, economic, or technological abuse or any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim by a specified person, such as a current or former spouse. Opponents of the expanded definition argue that narrowing the definition to a violent physical act is qualitatively different from other types of abuse (such as economic abuse) which ought to be reflected in the legal definitions.⁴¹

Other States' Laws

Approximately 38 states include a definition of domestic violence and penalties within the criminal code, and almost every state provides a definition within the domestic relations and social services code.⁴² States' definitions vary with some including nonphysical abuse including intimidation and emotional abuse.⁴³

Several states have codified legislation in which the definition of domestic violence includes coercive control or have adopted laws in separate provisions for coercion as a crime or defined term, including, but not limited to, Alabama, Colorado, Delaware, Hawaii, Missouri, New York, and Washington.⁴⁴ For instance, Hawaii's definition of domestic violence for purposes of domestic abuse protective orders includes coercive control, and "coercive control" is defined as a pattern of threatening, humiliating, or intimidating actions, which may include assaults, or other abuse that is used to harm, punish, or frighten an individual. "Coercive control" includes a pattern of behavior that seeks to deprive the individual's liberty or freedom and strip away the individual's sense of self, including bodily integrity and human rights, whereby the "coercive control" is designed to make an individual dependent by isolating them from support, exploiting them, depriving them of independence, and regulating their everyday behavior including:

- Isolating the individual from friends and family;
- Controlling how much money is accessible to the individual and how it is spent;
- Monitoring the individual's activities, communications, and movements;
- Name-calling, degradation, and demeaning the individual frequently;
- Threatening to harm or kill the individual or a child or relative of the individual;
- Threatening to publish information or make reports to the police or the authorities;
- Damaging property or household goods; and

⁴¹ Congressional Research Service, *The Violence Against Women Act (VAWA) Reauthorization: Issues for Congress*, p. 5, Mar. 31, 2021, available at [The Violence Against Women Act \(VAWA\) Reauthorization: Issues for Congress](#) (last visited Jan. 12, 2022) [noting In *United States v. Castleman*, the U.S. Supreme Court held that a misdemeanor offense of having "intentionally or knowingly cause[d] bodily injury to" the mother of the respondent's child qualified as "a misdemeanor crime of domestic violence." Justice Sotomayor delivered the opinion of the Court that included extensive discussion about acts of physical force. The Court held that it must attribute "'the common-law meaning of force' to [18 U.S.C.] §921(a)(33)(A)'s definition of a 'misdemeanor crime of domestic violence' as an offense that 'has, as an element, the use or attempted use of physical force'." Justice Scalia rendered a concurring opinion which submitted that "when everything is domestic violence, nothing is" and argued that if the definition of domestic violence includes all domestic acts then the definition of a new term would need to be established "...to denote actual domestic violence."]

⁴² NCSL DV.

⁴³ *Id.*

⁴⁴ *Id.*; HI Rev Stat s. 586-1.

- Forcing the individual to take part in criminal activity or child abuse.⁴⁵

Florida law

Under Florida law, the term “domestic violence” means any assault,⁴⁶ aggravated assault,⁴⁷ battery,⁴⁸ aggravated battery,⁴⁹ sexual assault, sexual battery,⁵⁰ stalking,⁵¹ aggravated stalking,⁵² kidnapping,⁵³ false imprisonment,⁵⁴ or any criminal offense resulting in physical injury or death of one family or household member by another family member or household member.⁵⁵ A family or household member includes spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.⁵⁶ Under current law, the term “coercive control” is not included in the definition of, or defined as a separate term in relation to, domestic violence provisions.

⁴⁵ HI Rev Stat s. 586-1.

⁴⁶ Section 784.011(1), F.S., defines “assault” as intentional, unlawful threat by word or act to do violence to the person of another, coupled with an apparent ability to do so, and doing some act which creates a well-founded fear in such other person that such violence is imminent.

⁴⁷ Section 784.021(1), F.S., defines “aggravated assault” as an assault: (a) with a deadly weapon without the intent to kill; or (b) with an intent to commit a felony.

⁴⁸ Section 784.03(1)(a), F.S., states that the offense of battery occurs when a person: 1. Actually and intentionally touches or strikes another person against the will of the other; or 2. Intentionally causes bodily harm to another person.

⁴⁹ Section 784.045(1)(a), F.S., states a person commits aggravated battery who, in committing battery: 1. Intentionally or knowingly causes great bodily harm, permanent disability, or permanent disfigurement; or 2. Uses a deadly weapon.

⁵⁰ Section 794.011(1)(h), F.S., defines “sexual battery” as oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose.

⁵¹ Section 748.048(2), F.S., states a person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person commits the offense of stalking.

⁵² Section 784.048(3), F.S., states that a person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person and makes a credible threat to that person commits the offense of aggravated stalking. Section 784.048(1)(a), F.S., states that “harass” means to engage in a course of conduct directed at a specific person which causes substantial emotional distress to that person and serves no legitimate purpose. Section 784.048(1)(c), F.S., defines “credible threat” as a verbal or nonverbal threat, or a combination of the two, including threats delivered by electronic communication or implied by a pattern of conduct, which places the person who is the target of the threat in reasonable fear for his or her safety or the safety of his or her family members or individuals closely associated with the person, and which is made with the apparent ability to carry out the threat to cause such harm. Section 784.048(1)(d), F.S., states “cyberstalk” means: 1. To engage in a course of conduct to communicate, or to cause to be communicated, directly or indirectly, words, images, or language by or through the use of electronic mail or electronic communication, directed at or pertaining to a specific person; or 2. To access, or attempt to access, the online accounts or Internet-connected home electronic systems of another person without that person’s permission. Section 784.048(1)(b), F.S., defines “course of conduct” as a pattern of conduct composed of a series of acts over a period of time, however short, which evidences a continuity of purpose.

⁵³ Section 787.01(1)(a), F.S., defines “kidnapping” as forcibly, secretly, or by threat confining, abducting, or imprisoning another person against her or his will and without lawful authority, with intent to: 1. Hold for ransom or reward or as a shield or hostage; 2. Commit or facilitate commission of any felony; 3. Inflict bodily harm upon or to terrorize the victim or another person; or 4. Interfere with the performance of any governmental or political function.

⁵⁴ Section 787.02(1)(a), F.S., defines “false imprisonment” as forcibly, by threat, or secretly confining, abducting, imprisoning, or restraining another person without lawful authority and against his or her will.

⁵⁵ Section 741.28(2), F.S.

⁵⁶ Section 741.28(3), F.S.

Injunctions

Current law establishes a cause of action for an injunction for protection against domestic violence.⁵⁷ The circuit court has jurisdiction to hear a petition for injunction.⁵⁸ This petition may be filed by any person who either is the victim of domestic violence or has reasonable cause to believe he or she is in imminent danger of becoming the victim of domestic violence.⁵⁹ The person can file a petition against a current or former spouse, any person related by blood or marriage, any person who is or was residing within a single dwelling unit, or is a person with whom the petitioner had a child.⁶⁰ A person is not precluded from requesting an injunction because he or she is not a spouse.⁶¹ The court is prohibited from issuing mutual orders of protection, but may issue separate injunctions for petition against domestic violence where each party has complied with the provisions under law which cannot be waived.⁶² A petitioner is not required to be represented by an attorney.⁶³

An injunction may be sought even if there is no other cause of action pending between the parties, but a petitioner must disclose the pendency of any such action in a petition.⁶⁴ If an action is filed under ch. 61, F.S., regarding dissolution of marriage, support and time-sharing, any ordered entered in that proceeding takes precedence of any inconsistent provision of an injunction ordered under s. 741.30, F.S., which addresses matters governed by ch. 61, F.S.⁶⁵

A sworn petition for injunction for protection against domestic violence must contain specific allegations of domestic violence, including facts and circumstances upon the basis of which relief is sought.⁶⁶ Effective October 1, 2002, the clerk of the court may not assess a fee for filing a petition for protection against domestic violence.⁶⁷ The clerk of the court is tasked with several responsibilities with respect to injunction proceedings, including, but not limited to:

- Assisting petitioners in seeking injunctions for protection against domestic violence and enforcement for a violation of such injunction;⁶⁸
- Providing simplified petition forms for the injunction, any modifications, and the enforcement of them, including instructions for completion;
- Making available any informational brochures on domestic violence that are provided by local certified domestic violence centers; and
- Distributing a statewide uniform informational brochure, when available, to petitioners at the time of the filing for an injunction for protection against domestic violence or repeat violence.⁶⁹

⁵⁷ Section 741.30(1), F.S.

⁵⁸ Section 741.30(1)(a), F.S.

⁵⁹ Section 741.30(1)(a), F.S.

⁶⁰ Section 741.30(3)(f), F.S.

⁶¹ Section 741.30(1)(e), F.S.

⁶² Section 741.30(1)(i), F.S.

⁶³ Section 741.30(1)(f), F.S.

⁶⁴ Section 741.30(1)(b), F.S.

⁶⁵ Section 741.30(1)(c), F.S.

⁶⁶ Section 741.30(3)(a), F.S.

⁶⁷ Section 741.30(2)(a), F.S.

⁶⁸ Section 741.30(2)(c)1., F.S.

⁶⁹ *Id.*

A domestic violence form pack and form packs for injunctions, such as stalking and repeat violence, as well as other helpful information and links on domestic violence are available on the Broward County Clerk of Court.⁷⁰ The form packs include copies of the required forms that must be filed with the sworn petition for injunction, such as the Cover Sheet for Family Court Cases and the Notice of Related Cases, and forms that may be filed at the discretion of the petitioner, such as a Request for Confidential Filing of Address.⁷¹

Current law sets out the following sample sworn petition which must be in substantially the same form when it is filed with the court to request an injunction for domestic violence:⁷²

PETITION FOR
INJUNCTION FOR PROTECTION
AGAINST DOMESTIC VIOLENCE

Before me, the undersigned authority, personally appeared Petitioner ...(Name)..., who has been sworn and says that the following statements are true:

(a) Petitioner resides at: ...(address)...

(Petitioner may furnish address to the court in a separate confidential filing if, for safety reasons, the petitioner requires the location of the current residence to be confidential.)

(b) Respondent resides at: ...(last known address)...

(c) Respondent’s last known place of employment: ...(name of business and address)...

(d) Physical description of respondent:.....

Race.....

Sex.....

Date of birth.....

Height.....

Weight.....

Eye color.....

Hair color.....

Distinguishing marks or scars.....

(e) Aliases of respondent:

(f) Respondent is the spouse or former spouse of the petitioner or is any other person related by blood or marriage to the petitioner or is any other person who is or was residing within

⁷⁰ Brenda D. Forman Clerk of Courts (COC), *Domestic Violence Forms and Self-Help*, available at [Domestic Violence - Broward County Clerk of Courts \(browardclerk.org\)](http://DomesticViolence-BrowardCountyClerkofCourts(browardclerk.org)) (last visited Jan. 12, 2022).

⁷¹ COC, *Domestic Violence Form Pack*, available at [DomesticViolenceFormsPackage1.pdf \(browardclerk.org\)](http://DomesticViolenceFormsPackage1.pdf(browardclerk.org)) (last visited Jan. 12, 2022).

⁷² Section 741.30(3)(b), F.S.

a single dwelling unit with the petitioner, as if a family, or is a person with whom the petitioner has a child in common, regardless of whether the petitioner and respondent are or were married or residing together, as if a family.

(g) The following describes any other cause of action currently pending between the petitioner and respondent:.....

.....
The petitioner should also describe any previous or pending attempts by the petitioner to obtain an injunction for protection against domestic violence in this or any other circuit, and the results of that attempt:.....

.....
Case numbers should be included if available.

(h) Petitioner is either a victim of domestic violence or has reasonable cause to believe he or she is in imminent danger of becoming a victim of domestic violence because respondent has: ...(mark all sections that apply and describe in the spaces below the incidents of violence or threats of violence, specifying when and where they occurred, including, but not limited to, locations such as a home, school, place of employment, or visitation exchange)...

.....
.....

....committed or threatened to commit domestic violence defined in s. 741.28, Florida Statutes, as any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another. With the exception of persons who are parents of a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.

....previously threatened, harassed, stalked, or physically abused the petitioner.

....attempted to harm the petitioner or family members or individuals closely associated with the petitioner.

....threatened to conceal, kidnap, or harm the petitioner’s child or children.

....intentionally injured or killed a family pet.

....used, or has threatened to use, against the petitioner any weapons such as guns or knives.

....physically restrained the petitioner from leaving the home or calling law enforcement.

....a criminal history involving violence or the threat of violence (if known).

....another order of protection issued against him or her previously or from another

jurisdiction (if known).

....destroyed personal property, including, but not limited to, telephones or other communication equipment, clothing, or other items belonging to the petitioner.

....engaged in any other behavior or conduct that leads the petitioner to have reasonable cause to believe he or she is in imminent danger of becoming a victim of domestic violence.

(i) Petitioner alleges the following additional specific facts: ...(mark appropriate sections)...

....A minor child or minor children reside with the petitioner whose names and ages are as follows:

....Petitioner needs the exclusive use and possession of the dwelling that the parties share.

....Petitioner is unable to obtain safe alternative housing because:

....Petitioner genuinely fears that respondent imminently will abuse, remove, or hide the minor child or children from petitioner because:

(j) Petitioner genuinely fears imminent domestic violence by respondent.

(k) Petitioner seeks an injunction: ...(mark appropriate section or sections)...

....Immediately restraining the respondent from committing any acts of domestic violence.

....Restraining the respondent from committing any acts of domestic violence.

....Awarding to the petitioner the temporary exclusive use and possession of the dwelling that the parties share or excluding the respondent from the residence of the petitioner.

....Providing a temporary parenting plan, including a temporary time-sharing schedule, with regard to the minor child or children of the parties which might involve prohibiting or limiting time-sharing or requiring that it be supervised by a third party.

....Establishing temporary support for the minor child or children or the petitioner.

....Directing the respondent to participate in a batterers' intervention program.

....Providing any terms the court deems necessary for the protection of a victim of domestic violence, or any minor children of the victim, including any injunctions or directives to law enforcement agencies.

Further, every petition for injunction against domestic violence must contain, directly above the signature line, a statement in specified font type which confirms that the statements contained in

the petition are true and correct, and the petitioner understands that they are being made under penalty of perjury punishable as provided for in s. 837.02, F.S.⁷³

If the sworn petition seeks to determine a parenting plan and time-sharing schedule with regard to the parties' minor child or children, allegations required under s. 61.522, F.S., of the Uniform Child Custody Jurisdiction and Enforcement Act must be accompanied by or included incorporated into the petition.⁷⁴

In determining whether there is reasonable cause to believe that the petitioner is in imminent danger of becoming a victim of domestic violence, the court must consider and evaluate all relevant factors alleged in the petition, including, but not limited to:

- The history between the petitioner and respondent, including any threats, harassment, stalking, or physical abuse;
- Whether the respondent has attempted to harm the petitioner or individuals closely associated with the petitioner;
- Whether the respondent has threatened to conceal, kidnap, or harm the petitioner's child;
- Whether the respondent has intentionally injured or killed a family pet;
- Whether the respondent has used, or has threatened to use, against the petitioner any weapons;
- Whether the respondent has a criminal history involving violence or the threat of violence;
- The existence of a verifiable order of protection issued previously or from another jurisdiction;
- Whether the respondent has destroyed personal property; and
- Whether the respondent engaged in any other behavior or conduct that leads the petitioner to have reasonable cause to believe that he or she is in imminent danger of becoming a victim of domestic violence.⁷⁵

The court may grant a temporary injunction ex parte, pending a full hearing, if it appears that an immediate and present danger of domestic violence exists.⁷⁶ The court may grant such relief that it deems proper, including an injunction:

- Restraining the respondent from committing any acts of domestic violence;
- Awarding to the petitioner the temporary and exclusive use and possession of the dwelling that the parties share or excluding the respondent from the residence of the petitioner;
- On the same basis as provided in s. 61.13, F.S., providing the petitioner a temporary parenting plan, including a time-sharing schedule, which may award the petitioner up to 100 percent of the time-sharing;
- Ordering the respondent to participate in treatment, intervention, or counseling services;
- Referring a petitioner to a certified domestic violence center;⁷⁷
- Awarding to the petitioner the temporary, exclusive care, possession, or control of an animal that is owned or cared for by certain persons, including the parties to the injunction; and

⁷³ Section 741.30(3)(c), F.S.

⁷⁴ Section 741.30(3)(d), F.S.

⁷⁵ Section 741.30(6)(b), F.S.

⁷⁶ Section 741.30(6)(a), F.S.

⁷⁷ Section 741.30(6)(a)6., F.S., requires the court to provide the petitioner with a list of certified domestic centers.

- Ordering such other relief as the court deems necessary for the protection of a victim.⁷⁸

Relief ordered that restrains the respondent from committing any acts of domestic violence or other relief granted that the court deems is necessary for protection of the victim remain in effect until the injunction is modified or dissolved.⁷⁹ Any temporary parenting plan remains in effect until the order expires or an order is entered by a court of competent jurisdiction in a pending or subsequent civil action or proceeding affecting certain parenting rights, including, but not limited to, placement, adoption or time-sharing.⁸⁰

A temporary or final judgment on injunction must explicitly state that:

- The injunction is valid and enforceable in all counties in the State of Florida;
- Law enforcement officers may use their arrest powers under s. 901.15(6), F.S. to enforce the terms of the injunction;
- The court had jurisdiction over the parties and matter under the laws of Florida and that reasonable notice and opportunity to be heard was given to the person against whom the order is sought sufficient to protect that person's due process rights;
- The date the respondent was served with the temporary or final order, if the information is known;⁸¹ and
- It is a violation of s. 790.233, F.S., and a first degree misdemeanor, for the respondent to possess or control any firearm or ammunition.⁸²

The court may also include in the injunction an order that the respondent attend a batterer's intervention program (BIP),⁸³ and must order it in certain circumstances.⁸⁴ When the court orders the alleged perpetrator to participate in a BIP, the court must provide a list of batterers' intervention programs.⁸⁵

Parental Rights

The interest of parents in the care, custody, and control of their children is a recognized fundamental liberty protected by the Due Process Clause of the Fourteenth Amendment to the United States Constitution. This fundamental liberty interest is rooted in the fundamental right of privacy from interference in making important decisions relating to marriage, family relationships, child rearing, and education.⁸⁶ The United States Supreme Court has explained the fundamental nature of this right is rooted in history and tradition:

⁷⁸ Section 741.30(6)(a), F.S.

⁷⁹ Section 741.30(6)(c), F.S., provides that any party may move to modify or dissolve the injunction at any time.

⁸⁰ Section 741.30(6)(a)4., F.S.

⁸¹ Section 741.30(6)(d), F.S.

⁸² Section 741.30(6)(g), F.S.

⁸³ BIPs are designed to address the root cause of domestic violence and deter participants from committing acts of domestic violence in the future. Battered Women's Justice Project, *Current Research on Batterer Intervention Programs and Implications for Policy*, p. 1, Dec. 2017, available at <https://www.bwjp.org/assets/batterer-intervention-paper-final-2018.pdf> (last visited Jan. 14, 2022).

⁸⁴ Section 741.30(6)(e), F.S.

⁸⁵ Section 741.30(6)(a)5., F.S.

⁸⁶ *Carey v. Population Svcs. Int'l*, 431 U.S. 678, 684-685 (1977) (recognizing the right of privacy in personal decisions relating to marriage, family relationships, child rearing, and education). See *Wisconsin v. Yoder*, 406 U.S. 205, 232-33 (1972) (holding a state law requiring that children attend school past eighth grade violates the parents' constitutional right to direct the religious upbringing of their children); *Parham v. J.R.*, 442 U.S. 584, 602 (1979) (recognizing the presumption that

The history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children. This primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition.⁸⁷

The Florida Supreme Court has recognized that under Art. I., s. 23 of the Florida Constitution, parents have a fundamental liberty interest in determining the care and upbringing of their children.⁸⁸ These rights may not be intruded upon absent a compelling state interest.⁸⁹ According to the Florida Supreme Court, when analyzing a statute that infringes on the fundamental right of privacy, the applicable standard of review requires that the statute survive the highest level of scrutiny:

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 intrusive means.⁹⁰

Parental Time-Sharing

Parental time-sharing is the time, including overnights and holidays, which a minor child spends with each parent.⁹¹ A parent's right to time-sharing is not absolute, and the Legislature may enact a time-sharing policy when it affects the best interest of the child.⁹² As a result of the constitutional right to a meaningful parent-child relationship, there must be competent, substantial evidence in the record that demonstrates that any restrictions or limitations on time-sharing are in the best interests of the child before those restrictions will be sustained.⁹³ Thus, where there is no evidence that the noncustodial parent is unfit, that extreme circumstances preclude visitation, or that visitation would adversely affect the welfare of the child, the trial court abuses its discretion in failing to provide visitation rights for that parent.⁹⁴ Moreover,

parents act in their children's best interest); *Meyer v. Nebraska*, 262 U.S. 390, 400-01 (1923) (affirming that the Constitution protects the preferences of the parent in education over those of the state); *Pierce v. Society of the Sisters of the Holy Names of Jesus and Mary*, 268 U.S. 510, 534-35 (1925) (recognizing the right of parents to direct the upbringing of and education of their children).

⁸⁷ *Wisconsin v. Yoder*, 406 U.S. 205, 232 (1972).

⁸⁸ *Beagle v. Beagle*, 678 So.2d 1271, 1272 (Fla. 1996) (holding a state law violated a parent's constitutional right to privacy by imposing grandparent visitation rights over objection of the parent without evidence of harm to the child or other compelling state interest).

⁸⁹ *Id.* See, e.g., *Shevin v. Byron, Harless, Schaffer, Reid & Assocs., Inc.*, 379 So.2d 633, 637 (Fla. 1980) and *Belair v. Drew*, 776 So.2d 1105, 1106 (Fla. 5th DCA 2001).

⁹⁰ *Winfield v. Division of Pari-Mutuel Wagering, Dept. of Bus. Regulation*, 477 So.2d 544, 547 (Fla. 1985) (citations omitted).

⁹¹ See s. 61.046(23), F.S. The schedule may be developed and agreed to by the parents of a minor child and approved by the court or established by the court if the parents cannot agree or if their agreed-upon schedule is not approved by the court.

⁹² See, e.g., *Mallick v. Mallick*, 2020 WL 6106287 (Fla. 2d DCA Oct. 16, 2020); *Bainbridge v. Pratt*, 168 So.3d 310 (Fla. 1st DCA 2011).

⁹³ *Miller v. Miller*, 302 So.3d 457 (Fla. 5th DCA 2020).

⁹⁴ *McArdle v. McArdle*, 753 So.2d 696 (Fla. 4th DCA 2000); *Johnston v. Boram*, 386 So.2d 1230 (Fla. 5th DCA 1980).

restriction of visitation is generally disfavored, unless the restriction is necessary to protect the welfare of the child.⁹⁵

Section 61.13(2), F.S., provides judges wide discretion in determining matters relating to parenting and time-sharing of minor children in actions under ch. 61, F.S., in accordance with the best interests of the child, while balancing the rights of parents. The court is required to determine all matters relating to parenting and time-sharing of each minor child of the parties in accordance with the best interests of the child and in accordance with the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA).⁹⁶

In establishing time-sharing, the court must make a determination of the best interests of the child by evaluating all of the factors affecting the welfare and interests of the particular minor child and the circumstances of that family, including, but not limited to, the:

- Demonstrated capacity and disposition of each parent to facilitate and encourage a continuing parent-child relationship, honor the time-sharing schedule, and accommodate necessary changes.
- Anticipated division of parental responsibilities after the litigation, including the extent to which parental responsibilities will be delegated to third parties.
- Demonstrated capacity and disposition of each parent to determine, consider, and act upon the needs of the child.
- Length of time the child has lived in a stable environment and the desirability of maintaining continuity.
- Geographic viability of the parenting plan, with special attention paid to the needs of school-age children and the amount of time to be spent traveling to effectuate the parenting plan.
- Mental health, physical health, and moral fitness of the parents.
- Home, school, and community record of the child.
- Reasonable preference of the child.
- Demonstrated knowledge, capacity, and disposition of each parent to be informed of the circumstances of the minor child, including, the child's friends, teachers, and daily activities.
- Demonstrated capacity and disposition of each parent to:
 - Provide a consistent routine; and
 - Communicate with and keep the other parent informed of issues and activities regarding the minor child, and the willingness of each parent to adopt a unified front on all major issues when dealing with the child.
- Evidence of domestic violence, sexual violence, child abuse, child abandonment, or child neglect, or that either parent has ever knowingly provided false information about such matters.
- Particular parenting tasks customarily performed by each parent, including the extent to which parenting responsibilities were undertaken by third parties.

⁹⁵ See *Munoz v. Munoz*, 210 So.3d 227 (Fla. 2d DCA 2017); *Davis v. Lopez-Davis*, 162 So.3d 19 (Fla. 4th DCA 2014).

⁹⁶ Section 61.13(2)(c), F.S. The UCCJEA was developed by the Legal Resource Center on Violence Against Women, the National Center on State Courts, and the National Council of Juvenile and Family Court Judges (NCJFCJ) to address jurisdictional and enforcement issues in child custody cases. The NCJFCJ, *Uniform Child Custody Jurisdiction and Enforcement Act: Guide for Court Personnel and Judges*, July 18, 2018, available at <https://www.ncjfcj.org/publications/uniform-child-custody-jurisdiction-and-enforcement-act-guide-for-court-personnel-and-judges/> (last visited April 7, 2021).

- Demonstrated capacity and disposition of each parent to participate and be involved in the child's school and extracurricular activities.
- Demonstrated capacity and disposition of each parent to maintain an environment for the child which is free from substance abuse.
- Capacity and disposition of each parent to protect the child from the ongoing litigation regarding child custody.
- Developmental stages and needs of the child and the demonstrated capacity and disposition of each parent to meet the child's developmental needs.⁹⁷

Further, the court may order sole parental responsibility and make such arrangements for time-sharing as will best protect the child or abused spouse from further harm if the court determines that shared parental responsibility would be detrimental to the child.⁹⁸ Current law provides for a rebuttable presumption⁹⁹ that parental time-sharing would be detrimental to the child if there is evidence that:

- A parent has been convicted of a misdemeanor of the first degree or higher involving domestic violence, as defined in s. 741.28, F.S., and ch. 775, F.S.;
- Meets the criteria of s. 39.806(1)(d), F.S., relating to grounds for termination of parental rights of incarcerated parents; or
- A parent has been convicted of or had adjudication withheld for an offense enumerated in s. 943.0435(1)(h)1.a., and at the time of the offense:
 - The parent was 18 years of age or older.
 - The victim was under 18 years of age or the parent believed the victim to be under 18 years of age.¹⁰⁰

A parent may rebut the presumption if the court finds in writing that the parent poses no significant risk of harm to the child and that time sharing is in the best interests of the minor child.¹⁰¹ If a parent rebuts the presumption, the court must consider all the best interest factors noted above that must be considered when determining a time-sharing schedule.¹⁰²

If the presumption is not rebutted, shared parental responsibility, including time-sharing and decisions regarding the child, may not be granted to the convicted parent.¹⁰³ In any event, the convicted parent is not relieved of any obligation to provide financial support.¹⁰⁴ The court may consider evidence of domestic violence or child abuse as evidence of detriment to the child even if the parent is not convicted of any such offenses or an injunction for protection against domestic violence has not been issued.¹⁰⁵

⁹⁷ Section 61.13(3)(a)-(t), F.S.

⁹⁸ Section 61.13(2)(c)2., F.S.

⁹⁹ Every rebuttable presumption is either a presumption: (a) affecting the burden of producing evidence and requiring the trier of fact to assume the existence of the presumed fact, unless credible sufficient evidence is introduced to the contrary in which case the trier of fact must determine whether the fact has been proven without regard to the presumption; or (b) affecting the burden of proof that imposes upon the party against whom it operates the burden of proof concerning the nonexistence of the presumed fact. Section 90.302, F.S.

¹⁰⁰ Section 61.13(2)(c)2., F.S.

¹⁰¹ Section 61.13(2)(c)5., F.S.

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ Section 61.13(2)(c)5., F.S.

¹⁰⁵ Section 61.13(2)(c)2., F.S.

The court has discretion to make specific orders regarding the parenting plan or time-sharing schedule that relate to the circumstances of the parties, that relate to the nature of the case, or that are equitable, and may provide for child support in accordance with s. 61.30, F.S., even if equal time-sharing is ordered.¹⁰⁶ The court also has the discretion to make orders that are specified under current law, such as modifying the parenting plan if it is in the child's best interest, and other orders to impose reasonable sanctions for the parent's noncompliance.¹⁰⁷ When a parent refuses to honor the other parent's rights under a time-sharing schedule without proper cause, the court must award the parent who was denied time a sufficient amount of extra time-sharing to compensate for the time that the parent missed.¹⁰⁸

Termination of Parental Rights

Section 39.806, F.S., authorizes the DCF to file a petition for termination of parental rights (TPR) against both parents when they fail to remedy the family problems that brought a child into the dependency system.¹⁰⁹ Alternatively, the DCF may move to terminate only one of the parent's rights if it can prove certain grounds, such as incarceration, egregious conduct, chronic substance abuse, the conception of the child as a result of sexual battery, a conviction requiring the parent to register as a sexual predator, or an incarcerated parent who the court determined is a sexual predator in s. 775.084, F.S., or committed a sexual battery that constitutes a capital, life, or first degree felony in violation of s. 794.011, F.S.¹¹⁰

III. Effect of Proposed Changes:

Domestic Violence (sections 3 to 5)

The bill modifies the definition of "domestic violence" in ss. 414.0252(4), F.S., and 741.28(3), F.S., to include conduct which constitutes coercive control. "Coercive control" is defined as a pattern of threatening, humiliating, or intimidating actions by one family or household member against another family or household member, where such actions are used to harm, punish, or frighten the family or household member and make him or her dependent on the other family or household member by isolating, exploiting, or regulating him or her. The term includes, but is not limited to:

- Isolating the family or household member from his or her friends or family.
- Controlling the amount of money accessible to the family or household member and how he or she spends such money.
- Monitoring the family or household member's activities, communications, or movements.
- Frequently engaging in conduct meant to demean, degrade, dehumanize, or embarrass the family or household member.
- Threatening to cause physical harm to or kill the child or relative of the family or household member.

¹⁰⁶ Section 61.13(5), F.S.

¹⁰⁷ Section 61.13(4)(c), F.S.

¹⁰⁸ Section 61.13(4)(c)1., F.S.

¹⁰⁹ Section 39.8055, F.S.

¹¹⁰ Section 39.806, F.S.

- Threatening to publish false information or make false reports to a law enforcement officer or other law enforcement personnel about the family or household member.
- Damaging the family or household member's property, household goods, or personal effects.
- Forcing the family or household member to participate in criminal activity.

The bill also modifies the content that is required to be included in the instructions that the clerk's office must provide for simplified petition forms, including the injunction, any modifications, and the enforcement. Specifically, the instructions must inform the petitioner that if he or she intends to seek an injunction that prohibits or limits time-sharing between the respondent and the child, he or she must state with specificity details which have caused the petitioner to fear that the respondent immediately will abuse, remove, or hide the child from the petitioner.

Additionally, the template petition for injunction form under s. 741.30(3)(b), F.S., is amended to include:

- Incorporates coercive control in the definition of domestic violence;
- Notes that the petitioner must provide details regarding any threats to conceal, kidnap, or harm the petitioner's child or children in paragraph (i) of the form;
- Instructs the petitioner to describe any actions taken or threats made by the respondent to cause fear that the respondent imminently will abuse, remove, or hide the child from the petitioner, including where and when the actions were taken or the threats were made, directly or indirectly; whether and how the respondent failed to comply with an existing parenting plan or time-sharing schedule; and any actions taken or comments made by the child that suggest the respondent has caused the child to fear for his or her safety; and
- Modifies the list of potential relief that may be sought in the injunction to relocate part of an existing option for relief to a new option whereby the petitioner seeks an injunction providing a temporary time-sharing schedule that prohibits time-sharing between the respondent and the child of the parties.

Parental Responsibility (sections 1 and 2)

SB 1106 modifies provisions relating to parental responsibility, specifically in regards to shared parental responsibility, parenting plans, and factors that the court must consider when determining such plans.

The bill modifies the standard that the court must apply when determining whether to order shared parental responsibility for a child to include a best interest determination based on reasonable factors, including, but not limited to, the time-sharing factors in s.61.13(3), F.S., unless the court finds that shared parental responsibility would be detrimental to the child.

It also amends the rebuttable presumption that establishes detriment to the child if the circumstances set out in that subparagraph are met to clarify that the rebuttable presumption for such circumstances also establishes that shared parental responsibility is not in the child's best interest if they are proven by clear and convincing evidence. Two additional circumstances are also added to the list that establish a rebuttable presumption, including:

- A parent or child has reasonable cause to believe he or she is in imminent danger of becoming a victim of domestic violence caused by the other parent, upon a review of all relevant factors, including, but not limited to, the factors in s. 741.30(6)(b); or
- There is alleged domestic violence as defined in s. 784.046(1)(c); child abuse as defined in s. 39.01(2); child abandonment as defined in s. 39.01(1); or child neglect as defined in s. 39.01(50) by a parent, regardless of whether a cause of action has been brought or is currently pending in court. This provision is a slightly modified version of one of the best interest factors that the court must consider when making a determination of parent plan.

The bill relocates, to apply to all rebuttable presumptions, a provision under current law that provides a parent may rebut the presumption upon a specific finding in writing by the court that the parent does not pose a significant risk of harm to the child and that time-sharing is in the best interests of the child. It also relocates the provision that if the presumption is rebutted, the court must consider all time-sharing factors in subsection (3) when developing the time-sharing schedule.

Even if the court does not find that shared responsibility would be detrimental to the child based upon the circumstances that establish a rebuttable presumption, the court may find that shared parental responsibility would be detrimental to the child and order sole parental responsibility and make such arrangements for time-sharing that will best protect the child or parent (as opposed to abused spouse under current law), including, but not limited to, supervised visitation by a third party at the expense of the parent without sole parental responsibility or a designated location at which to pick up and drop off the child. The bill removes the requirement that the time-sharing will best protect the child or abused spouse from further harm. It also removes the provision that requires the court to consider evidence of domestic violence or child abuse as evidence of detriment to the child regardless of whether a conviction for any offence of domestic violence or child abuse or the existence of an injunction for protection against domestic violence.

The bill amends the best interest factors that a court must consider when making a determination about the establishment or modification of parental responsibility, a parenting plan or a time-sharing schedule. Specifically, the factor regarding evidence of domestic violence, sexual abuse, child abuse, child abandonment, or child neglect that was relocated to the subparagraph as a rebuttable presumption noted above. It also adds the following two factors:

- Whether and to what extent the child has developed a relationship with either parent and the nature of any bond that has been established between such parent and the child. An example of the nature of the relationship that should be considered is if the child has expressed or exhibited behavior that suggests that he or she fears for his or her safety or well-being while being cared for by a parent. Upon the request of one parent, and at the parent's expense, the court may order an independent evaluation by a psychiatrist licensed under ch. 458, F.S., or ch. 459, F.S., or a psychologist licensed under ch. 490, F.S.
- Clear and convincing evidence that a parent has an improper motive for seeking shared parental responsibility and whether such motive will negatively interfere with that parent's ability to safely and effectively share parental responsibilities.

For purposes of ch. 61, F.S., the term “child”¹¹¹ has the same meaning as in s. 39.01(11), F.S. Technical amendments are made to the sections included in the bill. Sections 921.0024, 943.0584, and 943.171, F.S., are amended to update cross-references to s. 741.28, F.S.

The bill is effective July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Art. VII, s. 18, of the Florida Constitution.

B. Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

The Florida Supreme Court has recognized that under Art. I., s. 23 of the Florida Constitution, parents have a fundamental liberty interest in determining the care and upbringing of their children.¹¹² However, a parent’s right to time-sharing is not absolute, and the Legislature may enact a time-sharing policy when it affects the best interest of the child.¹¹³

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill provides additional grounds for which there is a rebuttable presumption of detriment to the child and that shared parental responsibility is not in the best interest in the child, and provides that the rebuttable presumption may be rebutted in certain circumstances. It also modifies when sole parental responsibility may be granted, and the best interest factors that must be considered when the court determines parental responsibility. To the extent that these provisions result in additional litigation related to

¹¹¹ Section 39.01(11), F.S., defines “child” as any unmarried person under the age of 18 years who has not been emancipated by order of the court.

¹¹² *Beagle v. Beagle*, 678 So.2d 1271, 1275 (Fla. 1996).

¹¹³ *See, e.g., Mallick v. Mallick*, 2020 WL 6106287 (Fla. 2d DCA Oct. 16, 2020); *Bainbridge v. Pratt*, 168 So.3d 310 (Fla. 1st DCA 2011).

the ability to be granted time-sharing rights, the bill may result in both parents involved in parenting plans and time-sharing agreements paying additional legal fees to litigate related to the time-sharing rights of the child or children.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill provides additional grounds for which there is a rebuttable presumption of detriment to the child and that shared parental responsibility is not in the best interest in the child, and provides that the rebuttable presumption may be rebutted in certain circumstances. It also modifies when sole parental responsibility may be granted, and the best interest factors that must be considered when the court determines parental responsibility. To the extent that these provisions result in additional litigation related to the ability to be granted time-sharing rights, the bill may result in both parents involved in parenting plans and time-sharing agreements paying additional legal fees to litigate related to the time-sharing rights of the child or children.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 61.046, 61.13, 414.0252, 741.28, 741.30, 921.0024, 943.0584, and 943.171 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.



798132

LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment (with title amendment)

Delete lines 39 - 403

and insert:

Section 1. This act may be cited as "Greyson's Law."

Section 2. Subsections (2) through (23) of section 61.046, Florida Statutes, are renumbered as subsections (3) through (24), respectively, and a new subsection (2) is added to that section to read:

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



798132

11 (2) "Child" has the same meaning as in s. 39.01(11).
12 Section 3. Paragraph (t) of subsection (3) of section
13 61.13, Florida Statutes, is redesignated as paragraph (w),
14 paragraph (c) of subsection (2) is amended, and new paragraphs
15 (t) and (v) are added to subsection (3) of that section, to
16 read:
17 61.13 Support of children; parenting and time-sharing;
18 powers of court.—
19 (2)
20 (c) The court shall determine all matters relating to
21 parenting and time-sharing of each ~~minor~~ child of the parties in
22 accordance with the best interests of the child and in
23 accordance with the Uniform Child Custody Jurisdiction and
24 Enforcement Act, except that modification of a parenting plan
25 and time-sharing schedule requires a showing of a substantial,
26 material, and unanticipated change of circumstances.
27 1. It is the public policy of this state that each ~~minor~~
28 child has frequent and continuing contact with both parents
29 after the parents separate or the marriage of the parties is
30 dissolved and to encourage parents to share the rights and
31 responsibilities, and joys, of childrearing. Except as otherwise
32 provided in this paragraph, there is no presumption for or
33 against the father or mother of the child or for or against any
34 specific time-sharing schedule when creating or modifying the
35 parenting plan of the child.
36 2. The court shall order that the parental responsibility
37 for a ~~minor~~ child be shared by both parents if determined to be
38 in the best interests of the child based on reasonable factors,
39 including, but not limited to, the time-sharing factors in



798132

40 subsection (3), unless the court finds that shared parental
41 responsibility would be detrimental to the child. There is The
42 following evidence creates a rebuttable presumption that shared
43 parental responsibility is not in the best interests of the
44 child and would be detrimental of detriment to the child if it
45 is proven by clear and convincing evidence that:

46 a. A parent has been convicted of a misdemeanor of the
47 first degree or higher involving domestic violence, as defined
48 in s. 741.28 and chapter 775;

49 b. A parent meets the criteria of s. 39.806(1)(d); ~~or~~

50 c. A parent has been convicted of or had adjudication
51 withheld for an offense enumerated in s. 943.0435(1)(h)1.a., and
52 at the time of the offense:

53 (I) The parent was 18 years of age or older.

54 (II) The victim was under 18 years of age or the parent
55 believed the victim to be under 18 years of age;

56 d. A parent or child has reasonable cause to believe he or
57 she is in imminent danger of becoming a victim of domestic
58 violence, as defined in s. 741.28, caused by the other parent
59 upon a review of all relevant factors, including, but not
60 limited to, the factors in s. 741.30(6)(b); or

61 e. There is domestic violence, as defined in s. 741.28;
62 sexual violence, as defined in s. 784.046(1)(c); child abuse, as
63 defined in s. 39.01(2); child abandonment, as defined in s.
64 39.01(1); or child neglect, as defined in s. 39.01(50), by a
65 parent against the other parent, or against a child or children
66 who the parents share in common, regardless of whether a cause
67 of action has been brought or is currently pending in the court.
68 Whether or not there is a conviction of any offense of domestic



798132

69 violence or child abuse or the existence of an injunction for
70 protection against domestic violence, the court shall consider
71 evidence of domestic violence or child abuse as evidence of
72 detriment to the child.

73

74 A parent may rebut the presumption that shared parental
75 responsibility is not in the best interests of the child upon a
76 specific finding in writing by the court that the parent poses
77 no significant risk of harm to the child and that time-sharing
78 is in the best interests of the child. If the presumption is
79 rebutted, the court shall consider all time-sharing factors in
80 subsection (3) when developing the time-sharing schedule.

81 3. If the presumption is not rebutted after the offending
82 or convicted parent is advised by the court that the presumption
83 exists, shared parental responsibility, including time-sharing
84 with the child, and decisions made regarding the child, may not
85 be granted to the offending or convicted parent. However, the
86 offending or convicted parent is not relieved of any obligation
87 to provide financial support.

88 4. If the court determines that shared parental
89 responsibility would be detrimental to the child based on
90 factors other than those in subparagraph 2., it may order sole
91 parental responsibility for the child to one parent and make
92 such arrangements for time-sharing as specified in the parenting
93 plan that as will best protect the child or parent, including,
94 but not limited to, supervised visitation by a third party at
95 the expense of the parent without sole parental responsibility
96 or a designated location in which to pick up and drop off the
97 child ~~abused spouse from further harm. Whether or not there is a~~



798132

98 ~~conviction of any offense of domestic violence or child abuse or~~
99 ~~the existence of an injunction for protection against domestic~~
100 ~~violence, the court shall consider evidence of domestic violence~~
101 ~~or child abuse as evidence of detriment to the child.~~

102 ~~5.3.~~ In ordering shared parental responsibility, the court
103 may consider the expressed desires of the parents and may grant
104 to one party the ultimate responsibility over specific aspects
105 of the child's welfare or may divide those responsibilities
106 between the parties based on the best interests of the child.
107 Areas of responsibility may include education, health care, and
108 any other responsibilities that the court finds unique to a
109 particular family.

110 ~~6.4.~~ The court shall order sole parental responsibility for
111 a ~~minor~~ child to one parent, with or without time-sharing with
112 the other parent if it is in the best interests of the ~~minor~~
113 child.

114 ~~7.5.~~ There is a rebuttable presumption against granting
115 time-sharing with a ~~minor~~ child if a parent has been convicted
116 of or had adjudication withheld for an offense enumerated in s.
117 943.0435(1)(h)1.a., and at the time of the offense:

118 a. The parent was 18 years of age or older.

119 b. The victim was under 18 years of age or the parent
120 believed the victim to be under 18 years of age.

121
122 A parent may rebut the presumption upon a specific finding in
123 writing by the court that the parent poses no significant risk
124 of harm to the child and that time-sharing is in the best
125 interests of the ~~minor~~ child. If the presumption is rebutted,
126 the court shall consider all time-sharing factors in subsection



798132

127 (3) when developing a time-sharing schedule.

128 ~~8.6.~~ Access to records and information pertaining to a
129 ~~minor~~ child, including, but not limited to, medical, dental, and
130 school records, may not be denied to either parent. Full rights
131 under this subparagraph apply to either parent unless a court
132 order specifically revokes these rights, including any
133 restrictions on these rights as provided in a domestic violence
134 injunction. A parent having rights under this subparagraph has
135 the same rights upon request as to form, substance, and manner
136 of access as are available to the other parent of a child,
137 including, without limitation, the right to in-person
138 communication with medical, dental, and education providers.

139 (3) For purposes of establishing or modifying parental
140 responsibility and creating, developing, approving, or modifying
141 a parenting plan, including a time-sharing schedule, which
142 governs each parent's relationship with his or her ~~minor~~ child
143 and the relationship between each parent with regard to his or
144 her minor child, the best interest of the child shall be the
145 primary consideration. A determination of parental
146 responsibility, a parenting plan, or a time-sharing schedule may
147 not be modified without a showing of a substantial, material,
148 and unanticipated change in circumstances and a determination
149 that the modification is in the best interests of the child.
150 Determination of the best interests of the child shall be made
151 by evaluating all of the factors affecting the welfare and
152 interests of the particular ~~minor~~ child and the circumstances of
153 that family, including, but not limited to:

154 (t) Whether and to what extent the child has developed a
155 relationship with either parent and the nature of any bond that



798132

156 has been established between such parent and the child.

157 (u) Whether the child has expressed or exhibited behavior
158 which suggests that the child has a well-founded fear of a
159 parent.

160 (v) Clear and convincing evidence that a parent has an
161 improper motive for seeking shared parental responsibility, and
162 whether such motive will negatively interfere with that parent's
163 ability to safely and effectively share parental
164 responsibilities.

165 Section 4. Subsection (4) of section 414.0252, Florida
166 Statutes, is amended to read:

167 414.0252 Definitions.—As used in ss. 414.025-414.55, the
168 term:

169 (4) "Domestic violence" means coercive control or any
170 assault, aggravated assault, battery, aggravated battery, sexual
171 assault, sexual battery, stalking, aggravated stalking,
172 kidnapping, false imprisonment, or other any criminal offense
173 that results in the physical injury or death of one family or
174 household member by another.

175 Section 5. Subsections (1) through (4) of section 741.28,
176 Florida Statutes, are renumbered as subsections (2) through (5),
177 respectively, present subsection (2) is amended, and a new
178 subsection (1) is added to that section, to read:

179 741.28 Domestic violence; definitions.—As used in ss.
180 741.28-741.31:

181 (1) "Coercive control" means a pattern of threatening,
182 humiliating, or intimidating actions by one family or household
183 member against another family or household member, which actions
184 are used to harm, punish, or frighten the family or household



798132

185 member and make him or her dependent on the other family or
186 household member by isolating, exploiting, or regulating him or
187 her. The term includes, but is not limited to:

188 (a) Isolating the family or household member from his or
189 her friends or family.

190 (b) Controlling the amount of money accessible to the
191 family or household member and how he or she spends such money.

192 (c) Monitoring the family or household member's activities,
193 communications, or movements.

194 (d) Frequently engaging in conduct meant to demean,
195 degrade, dehumanize, or embarrass the family or household
196 member.

197 (e) Threatening to cause physical harm to or kill a child
198 or relative of the family or household member.

199 (f) Threatening to publish false information or make false
200 reports to a law enforcement officer or other law enforcement
201 personnel about the family or household member.

202 (g) Damaging the family or household member's property,
203 household goods, or personal effects.

204 (h) Forcing the family or household member to participate
205 in criminal activity.

206 (3)(2) "Domestic violence" means coercive control or any
207 assault, aggravated assault, battery, aggravated battery, sexual
208 assault, sexual battery, stalking, aggravated stalking,
209 kidnapping, false imprisonment, or other ~~any~~ criminal offense
210 resulting in physical injury or death of one family or household
211 member by another family or household member.

212 Section 6. Paragraph (c) of subsection (2) and paragraph
213 (b) of subsection (3) of section 741.30, Florida Statutes, are



798132

214 amended to read:

215 741.30 Domestic violence; injunction; powers and duties of
216 court and clerk; petition; notice and hearing; temporary
217 injunction; issuance of injunction; statewide verification
218 system; enforcement; public records exemption.-

219 (2)

220 (c)1. The clerk of the court shall assist petitioners in
221 seeking both injunctions for protection against domestic
222 violence and enforcement for a violation thereof as specified in
223 this section.

224 2. All clerks' offices shall provide simplified petition
225 forms for the injunction, any modifications, and the enforcement
226 thereof, including instructions for completion. The instructions
227 must inform the petitioner that if he or she intends to seek an
228 injunction that prohibits or limits time-sharing between the
229 respondent and the child of the parties, he or she must state
230 with specificity details regarding the circumstances that give
231 rise to the petitioner fearing that the respondent imminently
232 will abuse, remove, or hide the child from the petitioner.

233 3. The clerk of the court shall advise petitioners of the
234 opportunity to apply for a certificate of indigence in lieu of
235 prepayment for the cost of the filing fee, as provided in
236 paragraph (a).

237 4. The clerk of the court shall ensure the petitioner's
238 privacy to the extent practical while completing the forms for
239 injunctions for protection against domestic violence.

240 5. The clerk of the court shall provide petitioners with a
241 minimum of two certified copies of the order of injunction, one
242 of which is serviceable and will inform the petitioner of the



798132

243 process for service and enforcement.

244 6. Clerks of court and appropriate staff in each county
245 shall receive training in the effective assistance of
246 petitioners as provided or approved by the Florida Association
247 of Court Clerks.

248 7. The clerk of the court in each county shall make
249 available informational brochures on domestic violence when such
250 brochures are provided by local certified domestic violence
251 centers.

252 8. The clerk of the court in each county shall distribute a
253 statewide uniform informational brochure to petitioners at the
254 time of filing for an injunction for protection against domestic
255 or repeat violence when such brochures become available. The
256 brochure must include information about the effect of giving the
257 court false information about domestic violence.

258 (3) (a) The sworn petition must allege the existence of such
259 domestic violence and must include the specific facts and
260 circumstances upon the basis of which relief is sought.

261 (b) The sworn petition shall be in substantially the
262 following form:

263 PETITION FOR
264 INJUNCTION FOR PROTECTION
265 AGAINST DOMESTIC VIOLENCE
266

267 Before me, the undersigned authority, personally appeared
268 Petitioner ...(Name)..., who has been sworn and says that the
269 following statements are true:

270 (a) Petitioner resides at: ...(address)...

271 (Petitioner may furnish address to the court in a separate



798132

272 confidential filing if, for safety reasons, the petitioner
273 requires the location of the current residence to be
274 confidential.)

275 (b) Respondent resides at: ...(last known address)...

276 (c) Respondent's last known place of employment: ...(name
277 of business and address)...

278 (d) Physical description of respondent:.....

279 Race.....

280 Sex.....

281 Date of birth.....

282 Height.....

283 Weight.....

284 Eye color.....

285 Hair color.....

286 Distinguishing marks or scars.....

287 (e) Aliases of respondent:.....

288 (f) Respondent is the spouse or former spouse of the
289 petitioner or is any other person related by blood or marriage
290 to the petitioner or is any other person who is or was residing
291 within a single dwelling unit with the petitioner, as if a
292 family, or is a person with whom the petitioner has a child in
293 common, regardless of whether the petitioner and respondent are
294 or were married or residing together, as if a family.

295 (g) The following describes any other cause of action
296 currently pending between the petitioner and respondent:.....
297

298 The petitioner should also describe any previous or pending
299 attempts by the petitioner to obtain an injunction for
300 protection against domestic violence in this or any other



798132

301 circuit, and the results of that attempt:.....
302

303 Case numbers should be included if available.

304 (h) Petitioner is either a victim of domestic violence or
305 has reasonable cause to believe he or she is in imminent danger
306 of becoming a victim of domestic violence because respondent
307 has: ...(mark all sections that apply and describe in the spaces
308 below the incidents of violence or threats of violence,
309 specifying when and where they occurred, including, but not
310 limited to, locations such as a home, school, place of
311 employment, or visitation exchange)...

312
313

314committed or threatened to commit domestic violence
315 defined in s. 741.28, Florida Statutes, as coercive control or
316 any assault, aggravated assault, battery, aggravated battery,
317 sexual assault, sexual battery, stalking, aggravated stalking,
318 kidnapping, false imprisonment, or other ~~any~~ criminal offense
319 resulting in physical injury or death of one family or household
320 member by another. With the exception of persons who are parents
321 of a child in common, the family or household members must be
322 currently residing or have in the past resided together in the
323 same single dwelling unit.

324 ...previously threatened, harassed, stalked, or physically
325 abused the petitioner.

326attempted to harm the petitioner or family members or
327 individuals closely associated with the petitioner.

328 ...threatened to conceal, kidnap, or harm the petitioner's
329 child or children (provide details in paragraph (i) below).



798132

330 intentionally injured or killed a family pet.
331 used, or has threatened to use, against the petitioner
332 any weapons such as guns or knives.
333 physically restrained the petitioner from leaving the
334 home or calling law enforcement.
335 a criminal history involving violence or the threat of
336 violence (if known).
337 another order of protection issued against him or her
338 previously or from another jurisdiction (if known).
339 destroyed personal property, including, but not limited
340 to, telephones or other communication equipment, clothing, or
341 other items belonging to the petitioner.
342 engaged in any other behavior or conduct that leads the
343 petitioner to have reasonable cause to believe he or she is in
344 imminent danger of becoming a victim of domestic violence.
345 (i) Petitioner alleges the following additional specific
346 facts: ...(mark appropriate sections)...
347 A ~~minor~~ child or ~~minor~~ children reside with the
348 petitioner whose names and ages are as follows:
349
350 Petitioner needs the exclusive use and possession of
351 the dwelling that the parties share.
352 Petitioner is unable to obtain safe alternative housing
353 because:
354
355 Petitioner genuinely fears that respondent imminently
356 will abuse, remove, or hide the ~~minor~~ child or children from
357 petitioner because: ...(describe any actions taken or threats
358 made by the respondent to cause such fear, including where and



798132

359 when the actions were taken or the threats were made, directly
360 or indirectly; whether and how the respondent failed to comply
361 with an existing parenting plan or time-sharing schedule; and
362 any actions taken or comments made by the child or children that
363 suggest the respondent has caused the child or children to

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

365 And the title is amended as follows:

366 Delete lines 3 - 33

367 and insert:

368 responsibility determinations; providing a short
369 title; amending s. 61.046, F.S.; providing a
370 definition; amending s. 61.13, F.S.; requiring a court
371 to order shared parental responsibility if it is found
372 to be in the best interests of the child based on
373 certain factors; providing that clear and convincing
374 evidence of certain conduct creates a rebuttable
375 presumption that shared parental responsibility is not
376 in the best interests of the child; providing
377 additional conduct that may create a rebuttable
378 presumption against shared parental responsibility;
379 authorizing a parent to rebut such presumption if
380 specified criteria are met; requiring the court to
381 rely upon specific evidence to make required findings
382 that the presumption has been rebutted; requiring the
383 court to consider all time-sharing factors when
384 developing the time-sharing schedule if such
385 presumption is rebutted; providing for sole parental
386 responsibility with specified time-sharing
387 arrangements under certain circumstances; relocating



798132

388 the requirement for the court to consider certain
389 evidence regardless of whether there is a conviction;
390 providing additional factors that the court must
391 consider when determining the best interests of the
392 child; making technical and conforming changes;
393 amending s. 414.0252, F.S.; conforming provisions to
394 changes made by the act; amending s. 741.28, F.S.;
395 providing and revising definitions; amending s.
396 741.30, F.S.; requiring the instructions for certain
397 petition forms to contain specified information;
398 revising the form for a Petition for Injunction for
399 Protection Against Domestic Violence to require the
400 inclusion of certain information; amending ss.
401 921.0024,

By Senator Harrell

25-01131-22

20221240__

1 A bill to be entitled
2 An act relating to the mental health of students;
3 amending s. 394.463, F.S.; revising data the
4 Department of Children and Families is required to
5 analyze when creating its annual report on the
6 initiation of certain involuntary examinations;
7 amending s. 1002.33, F.S.; requiring charter schools
8 to be in compliance with laws relating to reporting
9 involuntary examinations; amending s. 1006.07, F.S.;
10 requiring the Department of Education, by a specified
11 date, to share with the Department of Children and
12 Families data received from school districts relating
13 to involuntary examinations; amending s. 1011.62,
14 F.S.; revising requirements for plans relating to
15 mental health assistance allocations; providing an
16 effective date.

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

19
20 Section 1. Subsection (4) of section 394.463, Florida
21 Statutes, is amended to read:

22 394.463 Involuntary examination.—

23 (4) DATA ANALYSIS.—Using data collected under paragraph
24 (2) (a) and s. 1006.07(10), the department shall, at a minimum,
25 analyze data on both the initiation of involuntary examinations
26 of children and the initiation of involuntary examinations of
27 students who are removed from a school; identify any patterns or
28 trends and cases in which involuntary examinations are
29 repeatedly initiated on the same child or student; study root

25-01131-22

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30 causes for such patterns, trends, or repeated involuntary
31 examinations; and make recommendations to encourage the use of
32 alternatives to eliminate inappropriate initiations of such
33 examinations. The department shall submit a report on its
34 findings and recommendations to the Governor, the President of
35 the Senate, and the Speaker of the House of Representatives by
36 November 1 of each odd-numbered year.

37 Section 2. Paragraph (b) of subsection (16) of section
38 1002.33, Florida Statutes, is amended to read:

39 1002.33 Charter schools.—

40 (16) EXEMPTION FROM STATUTES.—

41 (b) Additionally, a charter school shall be in compliance
42 with the following statutes:

43 1. Section 286.011, relating to public meetings and
44 records, public inspection, and criminal and civil penalties.

45 2. Chapter 119, relating to public records.

46 3. Section 1003.03, relating to the maximum class size,
47 except that the calculation for compliance pursuant to s.

48 1003.03 shall be the average at the school level.

49 4. Section 1012.22(1)(c), relating to compensation and
50 salary schedules.

51 5. Section 1012.33(5), relating to workforce reductions.

52 6. Section 1012.335, relating to contracts with
53 instructional personnel hired on or after July 1, 2011.

54 7. Section 1012.34, relating to the substantive
55 requirements for performance evaluations for instructional
56 personnel and school administrators.

57 8. Section 1006.12, relating to safe-school officers.

58 9. Section 1006.07(7), relating to threat assessment teams.

25-01131-22

20221240__

59 10. Section 1006.07(9), relating to School Environmental
60 Safety Incident Reporting.

61 11. Section 1006.07(10), relating to reporting of
62 involuntary examinations.

63 12. Section 1006.1493, relating to the Florida Safe Schools
64 Assessment Tool.

65 ~~13.12.~~ Section 1006.07(6)(c), relating to adopting an
66 active assailant response plan.

67 ~~14.13.~~ Section 943.082(4)(b), relating to the mobile
68 suspicious activity reporting tool.

69 ~~15.14.~~ Section 1012.584, relating to youth mental health
70 awareness and assistance training.

71 Section 3. Subsection (10) of section 1006.07, Florida
72 Statutes, is amended to read:

73 1006.07 District school board duties relating to student
74 discipline and school safety.—The district school board shall
75 provide for the proper accounting for all students, for the
76 attendance and control of students at school, and for proper
77 attention to health, safety, and other matters relating to the
78 welfare of students, including:

79 (10) REPORTING OF INVOLUNTARY EXAMINATIONS.—Each district
80 school board shall adopt a policy to require the district
81 superintendent to annually report to the department the number
82 of involuntary examinations, as defined in s. 394.455, which are
83 initiated at a school, on school transportation, or at a school-
84 sponsored activity. By July 1 of each year, the department shall
85 share such data received from school districts during the
86 previous year with the Department of Children and Families.

87 Section 4. Paragraph (b) of subsection (14) of section

25-01131-22

20221240__

88 1011.62, Florida Statutes, is amended to read:

89 1011.62 Funds for operation of schools.—If the annual
90 allocation from the Florida Education Finance Program to each
91 district for operation of schools is not determined in the
92 annual appropriations act or the substantive bill implementing
93 the annual appropriations act, it shall be determined as
94 follows:

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

115 (b) The plans required under paragraph (a) must be focused
116 on a multitiered system of supports to deliver evidence-based

25-01131-22

20221240__

117 mental health care assessment, diagnosis, intervention,
118 treatment, and recovery services to students with one or more
119 mental health or co-occurring substance abuse diagnoses and to
120 students at high risk of such diagnoses. The provision of these
121 services must be coordinated with a student's primary mental
122 health care provider and with other mental health providers
123 involved in the student's care. At a minimum, the plans must
124 include the following elements:

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

137 2. Contracts or interagency agreements with one or more
138 local community behavioral health providers or providers of
139 Community Action Team services to provide a behavioral health
140 staff presence and services at district schools. Services may
141 include, but are not limited to, mental health screenings and
142 assessments, individual counseling, family counseling, group
143 counseling, psychiatric or psychological services, trauma-
144 informed care, mobile crisis services, and behavior
145 modification. These behavioral health services may be provided

25-01131-22

20221240__

146 on or off the school campus and may be supplemented by
147 telehealth.

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

150 a. Students referred to a school-based or community-based
151 mental health service provider for mental health screening for
152 the identification of mental health concerns and students at
153 risk for mental health disorders are assessed within 15 days of
154 referral. School-based mental health services must be initiated
155 within 15 days after identification and assessment, and support
156 by community-based mental health service providers for students
157 who are referred for community-based mental health services must
158 be initiated within 30 days after the school or district makes a
159 referral.

160 b. Parents of a student receiving services under this
161 subsection are provided information about other behavioral
162 health services available through the student's school or local
163 community-based behavioral health services providers. A school
164 may meet this requirement by providing information about and
165 Internet addresses for web-based directories or guides for local
166 behavioral health services.

167 c. Individuals living in a household with a student
168 receiving services under this subsection are provided
169 information about behavioral health services available through
170 other delivery systems or payors for which such individuals may
171 qualify, if such services appear to be needed or enhancements in
172 those individuals' behavioral health would contribute to the
173 improved well-being of the student ~~students who are referred to~~
174 ~~a school-based or community-based mental health service provider~~

25-01131-22

20221240__

175 ~~for mental health screening for the identification of mental~~
176 ~~health concerns and ensure that the assessment of students at~~
177 ~~risk for mental health disorders occurs within 15 days of~~
178 ~~referral. School-based mental health services must be initiated~~
179 ~~within 15 days after identification and assessment, and support~~
180 ~~by community-based mental health service providers for students~~
181 ~~who are referred for community-based mental health services must~~
182 ~~be initiated within 30 days after the school or district makes a~~
183 ~~referral.~~

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

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

193 6. Procedures to assist a mental health services provider
194 or a behavioral health provider as described in subparagraph 1.
195 or subparagraph 2., respectively, or a school resource officer
196 or school safety officer who has completed mental health crisis
197 intervention training in attempting to verbally de-escalate a
198 student's crisis situation before initiating an involuntary
199 examination pursuant to s. 394.463. Such procedures must include
200 strategies to de-escalate a crisis situation for a student with
201 a developmental disability as that term is defined in s.
202 393.063.

203 7. Policies of the school district must require that in a

25-01131-22

20221240__

204 student crisis situation, school or law enforcement personnel
205 must make a reasonable attempt to contact a mental health
206 professional who may initiate an involuntary examination
207 pursuant to s. 394.463, unless the child poses an imminent
208 danger to themselves or others, before initiating an involuntary
209 examination pursuant to s. 394.463. Such contact may be in
210 person or using telehealth as defined in s. 456.47. The mental
211 health professional may be available to the school district
212 either by contracts or interagency agreements with the managing
213 entity, one or more local community behavioral health providers,
214 or the local mobile response team or be a direct or contracted
215 school district employee.

216 Section 5. This act shall take effect July 1, 2022.

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 1240

INTRODUCER: Senator Harrell

SUBJECT: Mental Health of Students

DATE: January 18, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Berger	Cox	CF	Pre-meeting
2.	_____	_____	ED	_____
3.	_____	_____	RC	_____

I. Summary:

SB 1240 requires charter schools to report the removal of a student from school, school transportation, or a school-sponsored activity for an involuntary mental health examination. The bill provides that the Department of Education (the DOE) must share data comprised of both public and charter school reporting with the Department of Children and Families (the DCF) by July 1 of each year. The bill also provides specific data the DCF is required to analyze when preparing its biannual report on the involuntary examinations of minors.

The bill modifies requirements for annual mental health assistance allocation plans prepared by school districts by requiring districts to:

- Provide parents of students receiving mental health services with information regarding other services available through the student’s school or local community-based mental health providers; and
- Provide other individuals living in the same household as a student receiving mental health services with information about other services the student may qualify for that would contribute to the student’s improved well-being.

The bill will have an indeterminate fiscal impact on charter schools, the DOE, and the DCF. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2022.

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

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.⁵

The involuntary examination may be initiated by:

- A court entering an ex parte order stating that a person appears to meet the criteria for involuntary examination, based on sworn testimony;⁶
- A law enforcement officer taking a person who appears to meet the criteria for involuntary examination into custody and delivering the person or having him or her delivered to a receiving facility for examination;⁷ or
- A physician, clinical psychologist, psychiatric nurse, mental health counselor, marriage and family therapist, or clinical social worker executing a certificate stating that he or she has examined a person within the preceding 48 hours and finds that the person appears to meet the criteria for involuntary examination, including a statement of the professional's observations supporting such conclusion.⁸

Involuntary patients must be taken to either a public or a private facility that has been designated by the 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

¹ Sections 394.451-394.47891, F.S.

² Section 394.459, F.S.

³ See Sections 394.4625 and 394.463, F.S.

⁴ Section 394.463(1), F.S.

⁵ Section 394.463(1), F.S.

⁶ Section 394.463(2)(a)1., F.S. Additionally, the order of the court must be made a part of the patient's clinical record.

⁷ Section 394.463(2)(a)2., F.S. The officer must execute a written report detailing the circumstances under which the person was taken into custody, and the report must be made a part of the patient's clinical record.

⁸ Section 394.463(2)(a)3., F.S. The report and certificate shall be made a part of the patient's clinical record.

service provider.⁹ 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.¹⁰ 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 who are the least able to pay.¹¹ Currently, there are 128 Baker Act receiving facilities in the state, including 54 public receiving facilities and 68 private receiving facilities.¹²

Under the Baker Act, a receiving facility must examine an involuntary patient within 72 hours of arrival.¹³ During those 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.¹⁴ If the patient is a minor, the examination must be initiated within 12 hours.¹⁵

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:

- 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.¹⁶

Mental Health Services for Students

The 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.¹⁷

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.¹⁸ State funding for school districts' mental health services is provided primarily

⁹ Section 394.455(40), F.S. This term does not include a county jail.

¹⁰ Section 394.455(38), F.S.

¹¹ Rule 65E-5.400(2), F.A.C.

¹² Hospitals can also be designated as public receiving facilities. The DCF *Designated Baker Act Receiving Facilities*, available at <https://www.myflfamilies.com/service-programs/samh/crisisservices/docs/baker/Baker%20Act%20Receiving%20Facilities.pdf> (last visited January 14, 2022).

¹³ Section 394.463(2)(g), F.S.

¹⁴ Section 394.463(2)(f), F.S.

¹⁵ Section 394.463(2)(g), F.S.

¹⁶ *Id.*

¹⁷ Section 1003.42(2)(n), F.S.

¹⁸ Section 1012.01(2)(b), F.S.

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.¹⁹ Each district school board must include the amount of categorical funds as a part of the district annual financial report to the DOE and the DOE must submit a 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.²⁰

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.²¹ 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.²²

The DOE awards grants to district school boards for statewide planning and development of the multiagency Network for Students with Emotional or Behavioral Disabilities (SEDNET).²³ 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.²⁴ 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.²⁵ Currently, the school districts file a primary report with the DOE yearly, and charter schools are not statutorily required to file a yearly report regarding involuntary examinations of students.

Mental Health Allocation

The mental health assistance allocation was established in 2018²⁶ to provide funding to assist school districts in establishing or expanding school-based mental health care. These funds must

¹⁹ Section 1011.62(6), F.S.

²⁰ *Id.*

²¹ See s. 1006.04(1)(a), F.S.

²² Section 1006.04(1)(b), F.S.

²³ Section 1006.04(2), F.S.

²⁴ Fiscal agencies include the Brevard, Broward, Clay, Columbia, Miami-Dade, Escambia, Hendry, Hernando, Hillsborough, Levy, Liberty, Orange, Palm Beach, Pinellas, Polk, St. Lucie, Volusia, and Washington school districts. The DOE, Bureau of Exceptional Education and Student Services, *BEESS Discretionary Projects*, January 2017, at p. 11, available at <http://www.fldoe.org/core/fileparse.php/7567/urlt/projectslisting.pdf> (last visited January 14, 2022).

²⁵ The DOE, Bureau of Exceptional Education and Student Services, *BEESS Discretionary Projects*, January 2017, at p. 11, available at <http://www.fldoe.org/core/fileparse.php/7567/urlt/projectslisting.pdf> (last visited January 14, 2022).

²⁶ Section 29, ch. 2018-4, L.O.F.

be allocated annually in the General Appropriations Act or other law to each eligible school district. Each school district must 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 fulltime equivalent student enrollment. Eligible charter schools are entitled to a proportionate share of district funding.

At least 90 percent of a district's allocation must be expended on the elements specified in law. The allocated funds may not replace funds that are provided for this purpose from other operating funds or 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.²⁷

Before the distribution of the allocation:

- The school district must develop and submit a detailed plan outlining the local program and planned expenditures to the district school board for approval.
- A charter school must develop and submit a detailed plan outlining the local program and planned expenditures to its governing body for approval and it must be provided to the charter school's sponsor after the plan is approved by the governing body.
- The required plans must be focused on delivering evidence-based mental health care treatment to children and include all of the following elements:
 - 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.
 - Coordination of such services with a student's primary care provider and with other mental health providers involved in the student's care.
 - Direct employment of such service providers, or a contract-based collaborative effort or partnership with one or more local community mental health programs, agencies, or providers.²⁸

School districts must submit approved plans, including approved plans of each charter school in the district, to the commissioner by August 1 of each fiscal year.²⁹

Beginning September 30, 2019, and annually by September 30, each school district must submit to the DOE a report on its program outcomes and expenditures for the previous fiscal year which, at a minimum, must include the number of each of the following:

- Students who receive screenings or assessments.
- Students who are referred for services or assistance.
- Students who receive services or assistance.
- Direct employment service providers employed by each school district.
- Contract-based collaborative efforts or partnerships with community mental health programs, agencies, or providers.³⁰

²⁷ Section 1011.62(16), F.S.

²⁸ Section 1011.62(16)(b), F.S.

²⁹ Section 1011.62(16)(c), F.S.

³⁰ Section 1011.62(16)(d), F.S.

Children and the Baker Act

Over a 15-year period, the number of children subject to involuntary commitments under the Baker Act have increased at a faster pace than any other age group.³¹ Children are incapable of legally consenting to medical intervention needed to gauge whether an involuntary examination under the Baker Act is necessary.³² School officials and mental health professionals have stressed the need for additional mobile response teams, greater access to telehealth technology in accessing the teams, and more school psychologists as methods of addressing the growing number of children subjected to the Baker Act.³³ Over 130 law enforcement agencies across the state have policies in place requiring a parent or family member of a minor to be contacted prior to initiating a Baker Act.³⁴

Mental Health Data Reporting and Analysis

Professionals who initiate Baker Acts are required to capture the circumstances of the mental health crisis and make an affirmative statement that the person examined meets statutory criteria.³⁵ This information is recorded on a standardized form and reported to the DCF.³⁶ The DCF contracts with the Louis de la Parte Florida Mental Health Institute at the University of South Florida (the Institute) to perform the data analysis and provide an annual report using, among other things, the information provided on the forms.³⁷ The Institute also analyzes other information relating to mental health and acts as a provider of crisis services to certain patients.³⁸

Report on Involuntary Examinations of Minors

In 2017, the Legislature created a task force within the DCF³⁹ to address the issue of involuntary examination of minors age 17 years or younger, specifically by:⁴⁰

- 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.

³¹ Lynn Hatter, WFSU Public Media, *Committed: Improving Florida's Baker Act for Children a Challenge*, December 17, 2020, available at <https://news.wfsu.org/2020-12-17/committed-improving-floridas-baker-act-for-children-a-challenge> (last visited January 14, 2022).

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ Section 394.463(2)(a)3., F.S.; Rule 65E-5.280(3), F.A.C.

³⁶ Section 394.463(2)(a)3., F.S.; Rules 65E-5.120 and 65E-5.280(3), F.A.C.

³⁷ The University of South Florida, Baker Act Reporting Center, *About Us*, available at <https://www.usf.edu/cbcs/baker-act/about/index.aspx> (last visited January 12, 2022).

³⁸ See University of South Florida, Baker Act Reporting Center, *What We Do*, available at <https://www.usf.edu/cbcs/baker-act/about/whatwedo.aspx> (last visited Jan. 7, 2022); and University of South Florida, Louis de la Parte Florida Mental Health Institute, *About the Institute*, available at <https://www.usf.edu/cbcs/fmhi/about/> (last visited January 14, 2022).

³⁹ Chapter 2017-151, L.O.F.

⁴⁰ The DCF, *Task Force Report on Involuntary Examination of Minors*, (November 2017), p. 1, available at <https://www.myflfamilies.com/service-programs/samh/publications/docs/S17-005766-TASK%20FORCE%20ON%20INVOLUNTARY%20EXAMINATION%20OF%20MINORS.pdf> (last visited January 14, 2022).

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:

- Increase in mental health concerns:
 - In 2017, 31.5 percent of high school students experienced periods of persistent feelings of sadness or hopelessness within the past year, an increase from 28.5 percent in 2007.
 - In 2017, 17.2 percent of high school students seriously considered attempting suicide in the past year, an increase from 14.5 percent in 2007.⁴¹
- Social stressors such as parental substance use, poverty and economic insecurity, mass shootings, and social media and cyber bullying.⁴²
- 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 to 17 in Florida, approximately 13 percent experienced a major depressive episode in the past year, but only about 33 percent of children experiencing a major depressive episode in the past year receive treatment.⁴³

In 2019, as a follow up to the 2017 task force report, the Legislature instructed the DCF to prepare a report on the initiation of involuntary examinations of minors age 17 and younger and submit it by November 1 of each odd numbered year.⁴⁴ As part of the 2019 report, the 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.⁴⁵

In 2021, the Legislature⁴⁶ required the DCF to include in its analysis data on the initiation of Baker Acts of students who are removed from schools, to identify trends in Baker Acts involving students, and to make recommendations to encourage the use of alternatives to Baker Acts.⁴⁷ To aid the DCF in this task, school districts are required to annually report to the DOE the number of Baker Acts initiated at a school, on school transportation, or at a school-sponsored event.⁴⁸ The Office of Safe Schools is required to provide data to support the evaluation of mental health services performed by the Institute,⁴⁹ however there is no explicit requirement that the data be shared with the DCF.

⁴¹ The DCF, *Task Force Report on Involuntary Examination of Minors*, (Nov. 2019), p. 6, available at <https://www.myflfamilies.com/service-programs/samh/publications/docs/Report%20on%20Involuntary%20Examination%20of%20Minors.pdf> (last visited January 14, 2022).

⁴² *Id.* at p. 3.

⁴³ *Id.* at p. 5.

⁴⁴ Chapter 2019-134, L.O.F.

⁴⁵ *Id.*

⁴⁶ Chapter 2021-176, L.O.F.

⁴⁷ Section 394.463(4), F.S.

⁴⁸ Section 1006.07(10), F.S.

In its 2021 biennial analysis of Baker Acts of minors, the DCF reported 24,171 Baker Acts of minors under the age of 18 for FY 2019-2020 and that these made up 18 percent of all (128,193) Baker Acts that year.⁵⁰ Based on preliminary data from FY 2020-2021, the DCF reports a decrease in Baker Acts of children occurring in the school setting, with fewer than 15 percent of such Baker Acts being initiated at schools.⁵¹

III. Effect of Proposed Changes:

Data Collection and Reporting Requirements

The bill amends s. 394.463, F.S., requiring the DCF to include data received from the DOE on Baker Acts of students from both public and charter schools in preparing its biennial report on the involuntary examinations of minors.

Additionally, the bill amends s. 1002.33, F.S., subjecting all charter schools to the same reporting requirements regarding Baker Acts of minors that currently apply to public schools.

The bill amends s. 1006.07, F.S. requiring the DOE to share Baker Act data annually with the DCF no later than July 1 each year.

Procedures Regarding Mental Health Assistance Allocation

The bill also amends s. 1011.62, F.S., revising the requirements of mental health assistance allocation plans, which are prepared by school districts annually. Specifically, the bill adds the following requirements for the plans:

- After a student's assessment and identification, parents of students receiving services must be provided with information regarding other services available through the student's school or community.
- Any individual living in the same household as a student receiving services must be provided with information about behavioral health services available through other delivery systems or payors for which they may qualify, if such services appear to be needed or enhancements in their behavioral health would contribute to the improved well-being of the student.

The bill is effective July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

⁵⁰ The DCF, *Report of Involuntary Examinations of Children*, (Nov. 2021), p. 8, available at <https://www.myflfamilies.com/service-programs/samh/publications/docs/Report%20on%20Involuntary%20Examination%20of%20Minors%20-%202021.pdf>. (last visited January 14, 2022).

⁵¹ *Id.* at 9. The report does note that for 8 percent of Baker Acts the setting of the initiation was not reported.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

The bill will likely have an indeterminate impact on charter schools as they will be required to collect, maintain, and share data on Baker Acts of students.

C. Government Sector Impact:

The bill will likely have an indeterminate impact on the DOE and the DCF due to the additional data sharing and analysis requirements.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 394.463, 1002.33, 1006.07, 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.

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

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

586-02003A-22

20227034pb

1 A bill to be entitled
2 An act relating to child welfare; amending s. 39.5085,
3 F.S.; revising payment rates for relative and
4 nonrelative caregivers under the Relative Caregiver
5 Program; amending s. 409.145, F.S.; revising and
6 specifying room and board rates paid by the Department
7 of Children and Families; providing applicability of
8 annual cost of living increase and supplemental room
9 and board payment provisions to certain caregivers;
10 providing for an additional monthly payment for
11 certain caregivers; amending s. 1009.25, F.S.;
12 revising fee waiver eligibility for students who are
13 or were placed in the custody of a relative or
14 nonrelative to include certain students; creating a
15 tuition and fee exemption for students who enter the
16 custody of the department after a specified age and
17 who are reunited with their parent or parents before
18 reaching a specified age and after spending at least
19 18 months in out-of-home care; requiring the student
20 to meet certain federal financial aid eligibility
21 requirements; requiring the entity imposing the
22 tuition and fees to verify such eligibility; creating
23 a tuition and fee waiver for students who were the
24 subject of a dependency hearing, were placed in a
25 permanent guardianship, and remain in such
26 guardianship until the student reaches 18 years of age
27 or, if before reaching 18 years of age, he or she
28 enrolls in an eligible institution; reenacting s.
29 393.065(5)(b), F.S., relating to certain waiver

586-02003A-22

20227034pb

30 services, to incorporate the amendments made to s.
31 409.145, F.S., in a reference thereto; reenacting s.
32 409.1451(2)(b), F.S., relating to the Road-to-
33 Independence Program, to incorporate the amendments
34 made to s. 409.145, F.S., in references thereto;
35 providing an effective date.
36

37 Be It Enacted by the Legislature of the State of Florida:
38

39 Section 1. Present paragraphs (e) through (h) of subsection
40 (2) of section 39.5085, Florida Statutes, are redesignated as
41 paragraphs (f) through (i), respectively, a new paragraph (e) is
42 added to that subsection, and paragraph (d) of that subsection
43 is amended, to read:

44 39.5085 Relative Caregiver Program.—

45 (2)

46 (d) Relatives or nonrelatives ~~who are~~ caring for children
47 placed with them by the court pursuant to this chapter shall
48 receive a ~~special~~ monthly payment as follows:

49 1. From the date a child who is placed with the relative or
50 nonrelative is found to be dependent, or from the date a child
51 who has previously been found to be dependent is placed in out-
52 of-home care with the relative or nonrelative, until 6 months
53 after such placement, the rate of the monthly payment for
54 relatives and nonrelatives shall be the same as the rate
55 established in s. 409.145(3) for licensed family foster homes
56 regardless of whether licensure as a child-specific level I
57 foster placement has been obtained.

58 2. Relatives or nonrelatives who have children placed with

586-02003A-22

20227034pb

59 them in out-of-home care and who have obtained licensure as a
60 child-specific level I foster placement at any time after the
61 date of the placement, regardless of whether a court has found
62 that the child is dependent, shall receive the monthly payment
63 at the rate established in s. 409.145(3) until the child reaches
64 permanency, as determined by the court under s. 39.621.

65 3.a. Relatives or nonrelatives shall receive a monthly
66 payment in an amount determined by department rule, in an amount
67 that must be less than the monthly payment provided to a
68 participant enrolled in the Guardianship Assistance Program
69 under s. 39.6225, if licensure as a child-specific level I
70 foster placement has not been obtained by 6 months from the date
71 that the child is:

72 (I) Found to be dependent and, at the time of the finding,
73 the child is placed with the relative or nonrelative; or

74 (II) Placed in out-of-home care in the home of the relative
75 or nonrelative after the date from which the child has
76 previously been found to be dependent.

77 b. The payment under this subparagraph shall continue until
78 the child reaches permanency as determined by the court under s.
79 39.621 or until the relative or nonrelative caregiver obtains
80 licensure as a child-specific level I foster placement and
81 becomes eligible to receive payments under subparagraph 2.

82 4. Relatives or nonrelatives who have children placed in
83 their care by permanent guardianship pursuant to s. 39.6221, in
84 a permanent placement with a fit and willing relative pursuant
85 to s. 39.6231, or under former s. 39.622 if the placement was
86 made before July 1, 2006, who are not enrolled in the
87 Guardianship Assistance Program pursuant to s. 39.6225, shall

586-02003A-22

20227034pb

88 receive a monthly payment in an amount determined by department
89 rule which must be less than the monthly payment provided to a
90 participant enrolled in the Guardianship Assistance Program
91 under s. 39.6225.

92 (e) Relatives or nonrelatives obtaining monthly payments
93 under this section may also obtain a special benefit payment
94 ~~caregiver benefit established by rule of the department. The~~
95 ~~amount of the special benefit payment shall be based on the~~
96 ~~child's age within a payment schedule established by rule of the~~
97 ~~department and subject to availability of funding. The statewide~~
98 ~~average monthly rate for children judicially placed with~~
99 ~~relatives or nonrelatives who are not licensed as foster homes~~
100 ~~may not exceed 82 percent of the statewide average foster care~~
101 ~~rate, and the cost of providing the assistance described in this~~
102 ~~section to any caregiver may not exceed the cost of providing~~
103 ~~out-of-home care in emergency shelter or foster care.~~

104 Section 2. Present subsection (4) of section 409.145,
105 Florida Statutes, is redesignated as subsection (5), a new
106 subsection (4) is added to that section, and subsection (3) of
107 that section is amended, to read:

108 409.145 Care of children; "reasonable and prudent parent"
109 standard.—The child welfare system of the department shall
110 operate as a coordinated community-based system of care which
111 empowers all caregivers for children in foster care to provide
112 quality parenting, including approving or disapproving a child's
113 participation in activities based on the caregiver's assessment
114 using the "reasonable and prudent parent" standard.

115 (3) ~~FOSTER CARE ROOM AND BOARD RATES.—~~

116 (a) Effective July 1, 2022 ~~2018~~, room and board rates shall

586-02003A-22

20227034pb

117 be paid to foster parents, including relative and nonrelative
 118 caregivers who are licensed as a level I child-specific foster
 119 placement, and to relative and nonrelative caregivers who are
 120 participating in the Relative Caregiver Program and receiving
 121 payments pursuant to s. 39.5085(2)(d)1. or 2., as follows:
 122

Monthly Room and Board ~~Foster Care~~ Rate

123	0-5 Years	6-12 Years	13-21 Years
	Age	Age	Age
124	<u>\$517.95</u> \$457.95	<u>\$531.22</u> \$469.68	<u>\$621.77</u> \$549.74

125
 126 (b) Each January, foster parents, including relative and
 127 nonrelative caregivers who are licensed as a level I child-
 128 specific foster placement, and to relative and nonrelative
 129 caregivers who are participating in the Relative Caregiver
 130 Program and receiving payments pursuant to s. 39.5085(2)(d)1. or
 131 2., shall receive an annual cost of living increase. The
 132 department shall calculate the new room and board rate increase
 133 equal to the percentage change in the Consumer Price Index for
 134 All Urban Consumers, U.S. City Average, All Items, not
 135 seasonally adjusted, or successor reports, for the preceding
 136 December compared to the prior December as initially reported by
 137 the United States Department of Labor, Bureau of Labor
 138 Statistics. The department shall make available the adjusted
 139 room and board rates annually.

140 (c) ~~Effective July 1, 2019, foster parents of level I~~

586-02003A-22

20227034pb

141 ~~family foster homes as defined in s. 409.175(5)(a) shall receive~~
142 ~~a room and board rate of \$333.~~

143 ~~(d) Effective July 1, 2019, the foster care room and board~~
144 ~~rate for level II family foster homes as defined in s.~~
145 ~~409.175(5)(a) shall be the same as the new rate established for~~
146 ~~family foster homes as of January 1, 2019.~~

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

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

153 ~~(d)(g)~~ Effective July 1, 2019 ~~From July 1, 2018, through~~
154 ~~June 30, 2019,~~ community-based care lead agencies providing care
155 under contract with the department shall pay a supplemental room
156 and board payment to foster ~~care~~ parents, including relative and
157 nonrelative caregivers who are licensed as a level I child-
158 specific foster placement, and to relative and nonrelative
159 caregivers who are participating in the Relative Caregiver
160 Program and receiving payments pursuant to s. 39.5085(2)(d)1. or
161 2. of all family foster homes, on a per-child basis, for
162 providing independent life skills and normalcy supports to
163 children who are 13 through 17 years of age placed in their
164 care. The supplemental payment must ~~shall~~ be paid monthly ~~to the~~
165 ~~foster care parents~~ in addition to the current monthly room and
166 board rate payment. The supplemental monthly payment shall be
167 based on 10 percent of the monthly room and board rate for
168 children 13 through 21 years of age as provided under this
169 section and adjusted annually. ~~Effective July 1, 2019, such~~

586-02003A-22

20227034pb

170 supplemental payments shall only be paid to foster parents of
171 level II through level V family foster homes.

172 (4) CHILD CARE SUBSIDY.—Any foster parents and relative or
173 nonrelative caregivers, regardless of whether the relative or
174 nonrelative caregivers participate in the Relative Caregiver
175 Program or are licensed as a level I child-specific foster
176 placement, who have a child placed in out-of-home care in the
177 home between the age of birth to school entry shall receive a
178 payment of \$200 per month to pay toward the cost of an early
179 learning or child care program.

180 Section 3. Paragraphs (c) and (d) of subsection (1) of
181 section 1009.25, Florida Statutes, are amended to read:

182 1009.25 Fee exemptions.—

183 (1) The following students are exempt from the payment of
184 tuition and fees, including lab fees, at a school district that
185 provides workforce education programs, Florida College System
186 institution, or state university:

187 (c) A student who was the subject of a dependency
188 proceeding and:

189 1. Is, or was at the time he or she reached 18 years of
190 age, in out-of-home care. ~~the custody of the Department of~~
191 ~~Children and Families or who,~~

192 2. Is, or was at the time he or she reached 18 years of
193 age, in the custody of a relative or nonrelative pursuant to s.
194 39.5085 or s. 39.6225.

195 3. After spending at least 6 months in the custody of the
196 department after reaching 16 years of age, was placed in a
197 guardianship by the court.

198 4. After reaching 14 years of age and thereafter spending

586-02003A-22

20227034pb

199 at least 18 months in out-of-home care, was reunited with his or
200 her parent or parents who were the subject of the dependency
201 proceeding before he or she reaches 18 years of age, including a
202 student who is reunited under s. 39.8155. For a student to be
203 eligible under this subparagraph, the student must be Pell
204 Grant-eligible, and the entity imposing the tuition and fees
205 must verify such eligibility.

206 5. Was adopted from the department after May 5, 1997.

207 6. Was placed in a permanent guardianship, regardless of
208 whether the caregiver participates or participated in the
209 Relative Caregiver Program under s. 39.5085, and remains in such
210 guardianship until the student either reaches 18 years of age
211 or, if before reaching 18 years of age, he or she enrolls in an
212 eligible institution.

213

214 Such exemption includes fees associated with enrollment in
215 applied academics for adult education instruction. The exemption
216 remains valid until the student reaches 28 years of age.

217 ~~(d) A student who is, or was at the time he or she reached~~
218 ~~18 years of age, in the custody of a relative or nonrelative~~
219 ~~under s. 39.5085 or s. 39.6225 or who was adopted from the~~
220 ~~Department of Children and Families after May 5, 1997. Such~~
221 ~~exemption includes fees associated with enrollment in applied~~
222 ~~academics for adult education instruction. The exemption remains~~
223 ~~valid until the student reaches 28 years of age.~~

224 Section 4. For the purpose of incorporating the amendments
225 made by this act to section 409.145, Florida Statutes, in a
226 reference thereto, paragraph (b) of subsection (5) of section
227 393.065, Florida Statutes, is reenacted to read:

586-02003A-22

20227034pb

228 393.065 Application and eligibility determination.—
229 (5) The agency shall assign and provide priority to clients
230 waiting for waiver services in the following order:
231 (b) Category 2, which includes individuals on the waiting
232 list who are:
233 1. From the child welfare system with an open case in the
234 Department of Children and Families' statewide automated child
235 welfare information system and who are either:
236 a. Transitioning out of the child welfare system at the
237 finalization of an adoption, a reunification with family
238 members, a permanent placement with a relative, or a
239 guardianship with a nonrelative; or
240 b. At least 18 years but not yet 22 years of age and who
241 need both waiver services and extended foster care services; or
242 2. At least 18 years but not yet 22 years of age and who
243 withdrew consent pursuant to s. 39.6251(5)(c) to remain in the
244 extended foster care system.
245
246 For individuals who are at least 18 years but not yet 22 years
247 of age and who are eligible under sub-subparagraph 1.b., the
248 agency shall provide waiver services, including residential
249 habilitation, and the community-based care lead agency shall
250 fund room and board at the rate established in s. 409.145(3) and
251 provide case management and related services as defined in s.
252 409.986(3)(e). Individuals may receive both waiver services and
253 services under s. 39.6251. Services may not duplicate services
254 available through the Medicaid state plan.
255
256 Within categories 3, 4, 5, 6, and 7, the agency shall maintain a

586-02003A-22

20227034pb

257 waiting list of clients placed in the order of the date that the
258 client is determined eligible for waiver services.

259 Section 5. For the purpose of incorporating the amendments
260 made by this act to section 409.145, Florida Statutes, in
261 references thereto, paragraph (b) of subsection (2) of section
262 409.1451, Florida Statutes, is reenacted to read:

263 409.1451 The Road-to-Independence Program.—

264 (2) POSTSECONDARY EDUCATION SERVICES AND SUPPORT.—

265 (b) The amount of the financial assistance shall be as
266 follows:

267 1. For a young adult who does not remain in foster care and
268 is attending a postsecondary school as provided in s. 1009.533,
269 the amount is \$1,256 monthly.

270 2. For a young adult who remains in foster care, is
271 attending a postsecondary school, as provided in s. 1009.533,
272 and continues to reside in a licensed foster home, the amount is
273 the established room and board rate for foster parents. This
274 takes the place of the payment provided for in s. 409.145(3).

275 3. For a young adult who remains in foster care, but
276 temporarily resides away from a licensed foster home for
277 purposes of attending a postsecondary school as provided in s.
278 1009.533, the amount is \$1,256 monthly. This takes the place of
279 the payment provided for in s. 409.145(3).

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

285 5. For a young adult who remains in foster care, but

586-02003A-22

20227034pb

286 temporarily resides away from a licensed group home for purposes
287 of attending a postsecondary school as provided in s. 1009.533,
288 the amount is \$1,256 monthly. This takes the place of a
289 negotiated room and board rate.

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

293 Section 6. This act shall take effect July 1, 2022.

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: SPB 7034

INTRODUCER: For consideration by the Children, Families, and Elder Affairs Committee

SUBJECT: Child Welfare

DATE: January 14, 2022

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Preston	Cox		Pre-meeting

I. Summary:

SPB 7034 makes a number of changes to current law relating to monthly payment amounts for foster parents and relative and nonrelative caregivers and other benefits to assist with benefiting the lives of foster youth.

Specifically, the bill amends s. 39.5085, F.S., to modify current monthly payment amounts for relatives and nonrelatives who have children placed with them in out-of-home care to the same as the rate established in s. 409.145(3), F.S., applicable in current law to Level II through Level V family foster home placements. The increased board rates are authorized for children placed in the home while the dependency proceedings are open, provided one of the following instances applies:

- From the date a child who is placed with the relative or nonrelative is found to be dependent, or from the date a child who has previously been found to be dependent is placed in out-of-home care with the relative or nonrelative, until 6 months after such placement, regardless of whether licensure as a child-specific Level I foster placement has been obtained.
- From the date the caregiver has obtained licensure as a child-specific Level I foster placement at any time after the date of the placement, regardless of whether a court has found that the child is dependent, until the child reaches permanency, as determined by the court under s. 39.621, F.S.

Additionally, the bill modifies the monthly payment amount for relatives and nonrelatives in other ways. First, the bill provides that relatives or nonrelatives who fail to obtain licensure as a child-specific Level I foster placement within 6 months of a certain out-of-home care placement date must receive a monthly payment less than the \$333 monthly payment provided to a participant enrolled in GAP, which will be determined by rule. This payment is required to continue from 6 months of such date until the child reaches permanency as determined by the court under s. 39.621, F.S. However, if the relative or nonrelative caregiver obtains licensure as a child-specific Level I foster placement, he or she again becomes eligible to receive payments at the higher board rate currently applicable to Level II through Level V foster family placements allowable under s. 409.145(3), F.S.

This monthly difference between nonlicensed and licensed child-specific Level I placements will create a payment structure that motivates caregivers to get licensed while also assisting these important caregivers with providing for the needs of the children placed in their care.

The bill maintains current law for relatives or nonrelatives of children who reach permanency in a permanent guardianship, but whose relative caregivers are not enrolled in GAP, by providing that such caregivers must receive a monthly payment in an amount determined by rule, which must be less than the \$333 monthly payment provided to a participant enrolled in the GAP.

The bill also amends s. 409.145, F.S., applying the current Level II to Level V room and board rate structure to relative and nonrelative caregivers who are licensed as a Level I child-specific foster placement, and to relative and nonrelative caregivers who are participating in the Relative Caregiver Program and receiving the higher monthly board payments under the above-mentioned instances. Further, the bill applies the annual cost of living increase and the supplemental payment for teaching life skills and providing normalcy supports to children who are 13-17 years of age to the same caregivers mentioned above.

The bill also provides a \$200 per month subsidy to any foster parents and relative and nonrelative caregivers who have a child placed in their home between the ages of birth to school entry. This subsidy is provided regardless of whether the caregiver is licensed or not, but the child must be placed in out-of-home care with the caregiver and be the subject of an open dependency proceeding. The subsidy in the bill is intended to help defray the cost of an early learning or child care program.

The bill also expands the scope of potential students eligible for a tuition and fee exemption at a workforce education program, a Florida College System institution or a state university, by adding new instances for certain students who have been the subject of a dependency proceeding to be eligible for such an exemption, including for students who:

- After reaching 14 years of age, spent at least 18 months in out-of-home care and was reunified with his or her parents who were the subject of the dependency proceeding before reaching 18 years of age, including a student who was reunited under s. 39.8155, F.S. (reinstatement of parental rights). A student is only eligible for this tuition waiver if, in addition to the above-described factors, the student is also Pell Grant-eligible.
- Have been placed in a permanent guardianship, regardless of whether the caregiver participates or participated in the Relative Caregiver Program under s. 39.5085, F.S., and such student remains in the guardianship either until the student reaches 18 years of age or, if before reaching 18 years of age, he or she enrolls in an eligible institution.

The bill is expected to have a significant, indeterminate negative fiscal impact on the Department of Children and Families (DCF). See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2022.

II. Present Situation:

Florida's Child Welfare System - Overview

Current law requires any person who knows or suspects that a child has been abused, abandoned, or neglected to report such knowledge or suspicion to the Florida central abuse hotline (hotline).¹ A child protective investigation begins if the hotline determines the allegations meet the statutory definition of abuse,² abandonment,³ or neglect.⁴ A child protective investigator investigates the situation either immediately, or within 24 hours after the report is received, depending on the nature of the allegation.⁵

After conducting an investigation, if the child protective investigator determines that the child is in need of protection and supervision that necessitates removal, the investigator may initiate formal proceedings to remove the child from his or her home. When the DCF removes a child from the home, a series of dependency court proceedings must occur before a child may be adjudicated dependent.⁶

Subsequent to a child being found dependent, a court must hold a disposition hearing to determine a course of treatment and services and placement of the child under protective supervision.⁷ The court must first consider placing the child with relatives.⁸ If a child cannot safely remain in the original home and no adult relative is available for temporary, legal custody, the child may be placed with an adult willing to care for the child under the protective supervision of the DCF.⁹ Placing the child in the temporary, legal custody of the DCF invests the DCF with the rights and responsibilities of a legal custodian.¹⁰

¹ Section 39.201(1), F.S.

² Section 39.01(2), F.S. The term "abuse" means any willful act or threatened act that results in any physical, mental, or sexual abuse, injury, or harm that causes or is likely to cause the child's physical, mental, or emotional health to be significantly impaired. Abuse of a child includes the birth of a new child into a family during the course of an open dependency case when the parent or caregiver has been determined to lack the protective capacity to safely care for the children in the home and has not substantially complied with the case plan towards successful reunification or met the conditions for return of the children into the home. Abuse of a child includes acts or omissions. Corporal discipline of a child by a parent or legal custodian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child.

³ Section 39.01(1), F.S. The term "abandoned" or "abandonment" means a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the caregiver, while being able, has made no significant contribution to the child's care and maintenance or has failed to establish or maintain a substantial and positive relationship with the child, or both.

⁴ Sections 39.01(50) and 39.201(2)(a), F.S. "Neglect" occurs when a child is deprived of, or is allowed to be deprived of, necessary food, clothing, shelter, or medical treatment or a child is permitted to live in an environment when such deprivation or environment causes the child's physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired. The foregoing circumstances shall not be considered neglect if caused primarily by financial inability unless actual services for relief have been offered to and rejected by such person. A parent or legal custodian legitimately practicing religious beliefs in accordance with a recognized church or religious organization who thereby does not provide specific medical treatment for a child may not, for that reason alone, be considered a negligent parent or legal custodian; however, such an exception does not preclude a court from ordering necessary services.

⁵ Section 39.101(2), F.S.

⁶ See s. 39.01(14), F.S., for the definition of "child who is found to be dependent".

⁷ Section 39.521(1), F.S.

⁸ Section 39.507(7)(c), F.S.

⁹ Section 39.521(3)(c), F.S.

¹⁰ Section 39.521(3)(d), F.S.

The DCF must develop and refine a case plan¹¹ for each child receiving services throughout the dependency process with input from all parties to the child's dependency case. The case plan details are required to be tailored to address the abuse, abandonment, or neglect that gave rise to the abuse report, consider any other issues which would support family preservation if appropriate, and identify services to address the child's needs, as those needs are identified during the child protective investigation and throughout the case.¹²

The goal is for the dependency court and all parties involved in the child's case to ensure the child remains safe.¹³

When children are placed in out-of-home care, child welfare agencies must find safe, permanent homes for them as quickly as possible. In most cases, children are reunified with their families. When reunification is not possible, the DCF seeks to place children in permanent homes with relatives or adoptive families. Florida law requires a permanency hearing no later than 12 months after the child was removed from the home or within 30 days after a court determines that reasonable efforts to return the child to either parent are not required, whichever occurs first.¹⁴ The purpose of the permanency hearing is for the court to determine when the child will achieve permanency or whether modifying the permanency goal is in the child's best interest.¹⁵ A permanency hearing must be held at least every 12 months for any child who continues to be supervised by the DCF or awaits adoption.¹⁶

The permanency goals under Florida law, listed in order of preference are:

- Reunification;
- Adoption, if a petition for termination of parental rights has been or will be filed;
- Permanent guardianship under s. 39.6221, F.S.;
- Permanent placement with a fit and willing relative under 39.6231, F.S.; or
- Placement in another planned permanent living arrangement under s. 39.6241, F.S.¹⁷

Out-of-Home Placement Options

As mentioned above, the child welfare system identifies families whose children are in danger of suffering or have suffered abuse, abandonment, or neglect and works with those families to address the problems that are endangering children. If the problems cannot be ameliorated, the child welfare system finds other caregivers for children, such as foster families, relative and nonrelative caregivers, or adoptive families.¹⁸ These various types of placements as well as the specific licensure requirements are discussed below in more detail.

¹¹ Section 39.01(11), F.S., defines "case plan" to mean a document, as described in s. 39.6011, F.S., related to case plan development, prepared by the DCF with input from all parties. The case plan follows the child from the provision of voluntary services through any dependency, foster care, or termination of parental rights proceeding or related activity or process.

¹² Sections 39.6011 and 39.6012, F.S. Case plans must be developed in a face-to-face conference with the child's parent, any court-appointed Guardian ad Litem, and the child's temporary custodian and, if appropriate, the child.

¹³ Section 39.001(1)(a), F.S.

¹⁴ S. 39.621(1), F.S.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Section 39.621(3), F.S.

¹⁸ *See* s. 39.001(1), F.S.

Relative and Nonrelative Caregivers

When children cannot remain safely with their parents, placement with relatives is preferred over placement in foster care with nonrelatives. Caseworkers try to identify and locate a relative or relatives who can safely care for the children while parents receive services to help them address the issues that brought the children to the attention of child welfare.¹⁹ Placement with relatives, or kinship care, provides permanency for children and helps them maintain family connections. Kinship care is the raising of children by grandparents, other extended family members, and nonrelative adults with whom they have a close, family-like relationship, such as godparents and close family friends.²⁰

In Florida, there were 22,078 children in out-of-home care as of December 31, 2021, and fewer than half of those children were placed with approved relatives and nonrelatives and the rest were placed in licensed foster care, group care, or in another placement.²¹

Relative Caregiver Program

The RCP was established in 1998²² for the purpose of recognizing the importance of family relationships and providing additional placement options and incentives to help achieve permanency and stability for many children who are otherwise at risk of foster care placement. The program has been expanded²³ since its inception and currently the program applies to:

- Relatives who are within the fifth degree by blood or marriage to the parent or stepparent of a child and who are caring full-time for that dependent child in the role of substitute parent as a result of a court's determination of child abuse, neglect, or abandonment and subsequent placement with the relative under ch. 39, F.S.;
- Relatives who are within the fifth degree by blood or marriage to the parent or stepparent of a child and who are caring full-time for that dependent child, and a dependent half-brother or half-sister of that dependent child, in the role of substitute parent as a result of a court's determination of child abuse, neglect, or abandonment and subsequent placement with the relative; and

¹⁹ See s. 39.4015(3), F.S. The DCF is required to collaborate with sheriffs' offices that conduct child protective investigations and community-based care lead agencies to develop a family finding program. Family-finding efforts by the DCF and the community-based care lead agencies may include, but are not limited to: 1. searching for and locating adult relatives and fictive kin; 2. identifying and building positive connections between the child and the child's relatives and fictive kin; 3. supporting the engagement of relatives and fictive kin in social service planning and delivery of services and creating a network of extended family support to assist in remedying the concerns that led to the child becoming involved with the child welfare system, when appropriate; 4. maintaining family connections, when possible; and 5. keeping siblings together in care when possible and when in the best interest of each child.

²⁰ The American Bar Association, *Kinship Care is Better for Children and Families*, available at https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol-36/july-aug-2017/kinship-care-is-better-for-children-and-families/ (last visited January 11, 2022).

²¹ 8,084 of these children were placed with approved relatives and nonrelatives and 10,490 with another placement. See the DCF, *Children in Out-of-Home Care – Statewide* (December 31, 2021), available at <https://www.myflfamilies.com/service-programs/child-welfare/dashboard/> (last visited January 12, 2022).

²² Chapter 1998-78, L.O.F.

²³ Chapter 2014-224, L.O.F.

- A relative or nonrelative caregiver, but the relative or nonrelative caregiver may not receive a Relative Caregiver Program payment if the parent or stepparent of the child resides in the home; and
- Nonrelatives who have a close relationship with the child but who are not a blood relative or a relative by marriage.²⁴

The RCP provides that relatives and nonrelatives who have a child or children placed in out-of-home in their care and who have found to be dependent are eligible for financial assistance. A relative or nonrelative participating in the RCP does not have to be licensed for the child to be placed in the home or for the caregiver to receive financial assistance to care for the child. The amount of the monthly payment is determined by rule and discussed below.

Additionally, within available funding, the RCP is also required to provide caregivers with family support and preservation services, school readiness assistance, and other available services in order to support the child's safety, growth, and healthy development. Children living with caregivers who are receiving assistance under the program are also eligible for Medicaid coverage.²⁵

The court must find that a proposed placement is in the best interest of the child. Relatives or nonrelatives who qualify for and participate in the RCP are not required to meet foster care licensing requirements under s. 409.175, F.S.²⁶

Licensed Foster Care

Foster home placements are intended to provide a temporary, safe place to live until a child can be reunited with his or her family, an adoptive family is identified, or other permanency is achieved. Section 409.175(2)(e), F.S., defines a "family foster home" as a private residence in which children who are unattended by a parent or legal guardian are provided 24-hour care. Such homes include emergency shelter family homes and specialized foster homes for children with special needs. A family foster home does not include an adoptive home which has been approved by the DCF or by a licensed child-placing agency for children placed for adoption.²⁷

The recruitment, training, and licensing of foster parents is conducted by 18 community-based care agencies that maintain contracts with the DCF.²⁸ The total number of children placed in a family foster home must be based on the needs of each child in care; the ability of the foster family to meet the individual needs of each child, including any adoptive or biological children

²⁴ See s. 39.5085(2)(a), F.S.

²⁵ Section 39.5085, F.S.

²⁶ Section 39.5085(2)(a)3., F.S.

²⁷ Section 409.175(2)(e), F.S.

²⁸ The DCF, *Lead Agency Map*, available at <https://www.myflfamilies.com/service-programs/community-based-care/lead-agency-map.shtml> (last visited January 12, 2022). The DCF terminated the contract with Eckerd Connects for Circuit 6 and Family Support Services of North Florida took over on January 1, 2022. Eckerd Connects will carry out its contract until it expires June 30, 2022. WFLA, *DCF, Eckerd Connects ending child welfare services contracts in 3 Tampa Bay counties*, available at <https://www.wfla.com/news/local-news/DCF-eckerd-connects-end-child-welfare-services-in-3-tampa-bay-counties/>; WUSF Public Media, *Family Support Services of North Florida will fully take over on January 1, 2022*, Nov. 30, 2021, available at [State selects replacement for Eckerd Connects to run foster care in Pinellas, Pasco | WUSF Public Media](https://www.wusf.com/news/local-news/family-support-services-of-north-florida-will-fully-take-over-on-january-1-2022/) (all sites last visited Jan. 7, 2022).

or young adults remaining in foster care living in the home; the amount of safe physical plant space; the ratio of active and appropriate adult supervision; and the background, experience, and skill of the family foster parents.²⁹ Foster parents are responsible for the care and well-being of the child, including maintaining their health, safety, and best interests and encouraging emotional and developmental growth. Following placement, a foster child should be closely monitored by a case worker, who provides support and additional training related to special needs.³⁰

In 2019, Florida moved to a system of foster home licensing that consisted of five distinct levels:

- Level I: Child-Specific Foster Home.
- Level II: Non-Child Specific Foster Home.³¹
- Level III: Safe Foster Home for Victims of Human Trafficking.
- Level IV: Therapeutic Foster Home.
- Level V: Medical Foster Home.³²

Level I: Child-Specific Foster Home

A child specific licensed foster home is a new licensure type designed for relatives and nonrelatives who have an existing relationship with the child for whom they are seeking licensure. When a child is not able to safely remain at home with their parents, a family or like-family member who is willing and able to provide care for the child, is the next best alternative.³³

Level II: Non-Child Specific Foster Home

A non-child specific licensed foster home is identified when placement with a relative or nonrelative caregiver is not possible. This licensure type is available to individuals in the community who may be interested in fostering.³⁴

Level III: Safe Foster Home For Victims Of Human Trafficking

This level of licensure is for individuals interested in providing a safe and stable environment for victims of human trafficking.³⁵ Florida law defines “human trafficking” as transporting, soliciting, recruiting, harboring, providing, enticing, maintaining,³⁶ purchasing, patronizing, procuring, or obtaining³⁷ another person for the purpose of exploitation of that person.³⁸ In

²⁹ Section 409.175(3)(a) and (b), F.S., provides that the DCF may grant a capacity waiver in certain instances.

³⁰ See s. 409.1415(2), F.S., for specific roles and responsibilities of foster parents.

³¹ Previously “Traditional” foster homes are now Level II.

³² The DCF, *Levels of Foster Care Licensure*, available at <https://www.myflfamilies.com/service-programs/foster-care/levels.shtml>; Florida FAPA, *Become a Foster Parent*, available at [Become A Foster Parent – FloridaFAPA.org](http://www.BecomeAFosterParent.org) (all sites last visited January 12, 2022).

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ Section 787.06(2)(f), F.S., provides “maintain” means, in relation to labor or services, to secure or make possible continued performance thereof, regardless of any initial agreement on the part of the victim to perform such type service. Section 787.06(2)(h), F.S., defines “services” as any act committed at the behest of, under the supervision of, or for the benefit of another, including forced marriage, servitude, or the removal of organs.

³⁷ Section 787.06(2)(g), F.S., provides “obtain” means, in relation to labor, commercial sexual activity, or services, to receive, take possession of, or take custody of another person or secure performance thereof. Section 787.06(2)(e), F.S., provides “labor” means work of economic or financial value.

³⁸ Section 787.06(2)(d), F.S.

Florida, any person who knowingly, or in reckless disregard of the facts, engages in human trafficking, or attempts to engage in human trafficking, or benefits financially by receiving anything of value from participation in a venture that has subjected a person to human trafficking for labor or services, or commercial sexual activity, commits a crime.³⁹

Level IV: Therapeutic Foster Home

This level of licensure is for caregivers who have received specialized training to care for a wide variety of children and adolescents who may have significant emotional, behavioral, or social needs. As a therapeutic foster parent, individualized care is provided in the home by the foster parent to ensure a child receives the appropriate level of care in the least restrictive setting.⁴⁰

Level V: Medical Foster Home

This licensure type is for caregivers who have received specialized training to provide care for children and adolescents with chronic medical conditions. Medical foster parents enable children from birth through age 20 with medically-complex conditions whose parents are unable to care for them in their own homes, to live and receive care in a foster home rather than in hospitals or other facility settings.⁴¹

Foster Placement Licensure

It is less cumbersome to obtain a Level I foster license than it is to obtain licensure as a Level II through Level V family foster placement. A high level summary of the differences in licensure requirements is included in the below table:⁴²

Requirement Category	Level I – Child Specific	Level II: Non-Child Specific Foster Home	Level III: Safe Foster Home for Victims of Human Trafficking	Level IV: Therapeutic Foster Home	Level V: Medical Foster Home
Assessment	<ul style="list-style-type: none"> • Ability to Protect • Physical Environment • Financial Resources • Ability to care, nurture, and meet the child’s physical, emotional and 	Same as Level I	Same as Level I	Same as Level I	Same as Level I
			Medicaid Provider	Medicaid Provider	Medicaid Provider

³⁹ Section 787.06(3), F.S.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² The DCF, *Power Point Presentation on Overview of Out-of-Home Care Placements and Caregivers*, Committee on Children Families and Elder Affairs, October 18, 2021, p. 5, available at https://www.flsenate.gov/Committees/Show/CF/MeetingPacket/5296/9500_MeetingPacket_5296_2.pdf (last visited January 12, 2022).

	educational needs. ⁴³				
Screening	<ul style="list-style-type: none"> • State and Federal • Local/Civil Checks • DJJ Sexual/Predator Offender • Abuse/ Neglect Checks⁴⁴ 	Same as Level I and Conviction/Charge Additional Offenses/ Disqualifiers ⁴⁵	Same as Level II	Same as Level II	Same as Level II
Training	2 DCF licensing hours (online course)	21 DCF licensing hours	21 DCF licensing hours and 24 Commercial Sexual Exploitation hours	21 DCF licensing hours and 30 AHCA hours	21 DCF licensing hours and 32 AHCA hours

Monthly Compensation for Specified Caregivers

The monthly payment amounts provided to caregivers under current law depend upon the type of caregiver, whether the caregiver is licensed, and whether the dependency proceedings are open or the closed and the child has reached permanency. Below is a brief description of the payment amounts and a table illustrating such payments.

Current law authorizes reimbursement for children in foster care or in residential group homes to begin at the time the child is placed regardless of a court has found the child to be dependent. However, the monthly benefit payment for relative and nonrelative caregivers does not begin until the court has made such a finding.⁴⁶ Adjudication typically takes two months to a year.

Prior to the child being found to be dependent, a relative caregiver is only eligible for temporary cash assistance if he or she is in close enough consanguinity to the child.⁴⁷ During this time, a nonrelative caregiver receives no monthly benefit assistance. Once the child has been adjudicated dependent, the relative becomes eligible for the full Relative Caregiver Program benefit amount.⁴⁸

RCP

Under the RCP, a monthly cash assistance is provided to relatives who meet eligibility rules and have custody of a child under age 18 who has been adjudicated dependent by a Florida court and placed in their home.⁴⁹ The amount of the assistance is based on the statewide average monthly rate for children placed by the court with relatives or nonrelatives who are not licensed as foster

⁴³ Section 409.175, F.S., provides that non-safety requirements may be waived.

⁴⁴ See s. 39.0138, F.S., and 65C-45.001, F.A.C.

⁴⁵ See s. 39.0138, F.S., ch. 435, F.S., and 65C-45.001, F.A.C.

⁴⁶ Section 39.5085(2)(a), F.S.

⁴⁷ FN

⁴⁸ *Id.*

⁴⁹ Section 39.5085(2)(a), F.S.

homes and may not exceed 82 percent of the statewide average foster care rate. Additionally, the cost of providing the assistance to any caregiver in the program may not exceed the cost of providing out-of-home care in an emergency shelter or in foster care.⁵⁰

Level I Licensed Foster Placement

The current board rate for a relative or nonrelative caregiver who has been licensed as a Level I child-specific foster placement is \$333 per month. This type of foster placement is not eligible for the cost of living increase or the supplemental board rate provided for in s. 409.145(3)(b) and (c), F.S.

Level II-V Licensed Foster Placement

The current room and board rates paid to foster parents under statute are:⁵¹

- \$457.95 monthly for children 0-5 years of age.
- \$469.68 monthly for children 6-12 years of age.
- \$549.74 monthly for children 13-21 years of age.⁵²

In addition to the monthly board rate, Level II through Level V licensed family foster home placements receive an annual cost of living increase.⁵³ Additionally, the board rate amount may be increased upon agreement between the DCF, the community-based care lead agency, and the foster parent.⁵⁴

As demonstrated by the charts below, the monthly cash assistance amount is higher than the Temporary Cash Assistance for one child but less than the amount paid for a child in the foster care program.

Age of Child	RCP (No License requirement)⁵⁵	Level I Licensure (Child Specific)⁵⁶	Family Foster Homes (Level II-V)⁵⁷	Adoption Assistance (Closed case that closes in an adoption)⁵⁸	GAP (Closed case that closes in a permanent guardianship status)⁵⁹
Ages 0 through 5 years	\$242	\$333	\$517.95	\$417 minimum	\$333 minimum

⁵⁰ Section 39.5085(2)(d), F.S.

⁵¹ Section 409.145(3)(a), F.S.

⁵² Family foster parents receive this monthly room and board rate through the child reaching age 21.

⁵³ Section 409.145(3)(b), F.S.

⁵⁴ Section 409.145(3)(f), F.S.

⁵⁵ See s. 39.5085, F.S., and the DCF CFOP No. 170-10, ch. 8-7, available at <https://www.myflfamilies.com/admin/publications/cfops/CFOP%20170-xx%20Child%20Welfare/CFOP%20170-10%20Providing%20Services%20and%20Support%20for%20Children%20in%20Care%20and%20for%20Caregivers/CFOP%20170-10%20Providing%20Services%20and%20Support%20for%20Children%20in%20Care%20and%20for%20Caregivers.pdf> (last visited January 13, 2022).

⁵⁶ Section 409.145(3)(c), F.S.

⁵⁷ Section 409.145(3)(a), F.S.

⁵⁸ See s. 409.166, F.S.

⁵⁹ See s. 39.6225, F.S.

Ages 6 through 12 years	\$249	\$333	\$531.22	\$417 minimum	\$333 minimum
Ages 13 through 18 years	\$298	\$333	\$621.77	\$417 minimum	\$333 minimum

In addition to a monthly assistance amount, a caregiver may receive a monthly payment after a child is placed in his or her care upon the court finding the child dependent through the DCF’s economic self-sufficient programs, including Temporary Cash Assistance for Needy Families (TANF). The amounts that are provided to the caregiver are based on the number of children and are as follows:

- \$180, one child;
- \$241, two children;
- \$303, three children.⁶⁰

Benefits Upon the Child Reaching Permanency

Fostering Connections to Success and Increasing Adoptions Act (Fostering Connections)

The federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Fostering Connections) was designed to improve the lives of children and youth in foster care and increase the likelihood that they will be able to leave the foster care system to live permanently with relative caregivers or adoptive families. The law accomplishes this, in part, by allowing states to:

- Extend foster care services for children leaving foster care and adoptive families to the age of 21 years; and
- Establish a subsidized guardianship assistance program for relative caregivers.⁶¹

Extended Foster Care

In 2013, the Legislature exercised the option of providing for extended foster care, which applies to young adults aged 18 to 21 who have not achieved permanency prior to their 18th birthdays.⁶² The program builds on independent living assistance services that were previously available to young adults who “aged-out” of the foster care system.⁶³ Extended foster care services are available to young adults who are living in licensed care on their 18th birthday and who are:

- Completing secondary education or a program leading to an equivalent credential;
- Enrolled in an institution that provides postsecondary or vocational education;
- Participating in a program or activity designed to promote or eliminate barriers to employment;
- Employed for at least 80 hours per month; or
- Unable to participate in programs or activities listed above full time due to a physical intellectual, emotional, or psychiatric condition that limits participation.⁶⁴

⁶⁰ See s. 414.095(10), F.S. These are monthly benefit amounts per total number of children.

⁶¹ P.L. 110-351.

⁶² Chapter 2013-178, L.O.F.

⁶³ Section 409.1451, F.S.

⁶⁴ Section 39.6251(2), F.S.

Title IV-E Guardianship Assistance Program

Additionally, Fostering Connections encouraged the creation of a federally supported, which was codified in s. 39.6225, F.S., the GAP. This program is for relatives as that term is defined in the section, which includes fictive kin. Section 39.01, F.S., defines “relative” to mean fictive kin,⁶⁵ relative,⁶⁶ or next of kin.⁶⁷

The GAP provides states the option of being reimbursed under federal Title IV-E⁶⁸ to support kinship guardianship payments for children living in the homes of relative caregivers who become the children’s legal guardians through a permanent guardianship option.⁶⁹ The DCF is required to provide guardianship assistance payments to a participant enrolled in the GAP program for an eligible child in the amount of \$4,000 annually, paid on a monthly basis, which equals \$333 per month. However, the DCF is authorized to provide an amount other than \$4,000 annually as determined by the guardian and the DCF if the alternate amount is memorialized in a written agreement between the guardian and the DCF and the agreement takes into consideration the circumstances of the guardian and the needs of the child.⁷⁰

Both the child and the “relative” may be eligible for assistance under the GAP program. If a child meets certain Title IV-E eligibility standards, he or she may also be eligible for a GAP subsidy if:

- The child has been removed from his or her family’s home pursuant to a voluntary placement agreement or as a result of a judicial determination that allowing the child to remain in the home would be contrary to the child’s welfare;
- The child is eligible for federal foster care maintenance payments under Title IV-E for at least six consecutive months while residing in the home of the prospective relative guardian who is licensed or approved as meeting the licensure requirements as a foster family home;⁷¹

⁶⁵ Section 39.01(28), F.S., defines “fictive kin” as a person unrelated by birth, marriage, or adoption who has an emotionally significant relationship, which possesses the characteristics of a family relationship, to a child.

⁶⁶ Section 39.01(73), F.S., defines “relative” to mean a grandparent, great-grandparent, sibling, first cousin, aunt, uncle, great-aunt, great-uncle, niece, or nephew, whether related by the whole or half blood, by affinity, or by adoption. The term does not include a stepparent.

⁶⁷ Section 39.01(51), F.S., defines “next of kin” to mean an adult relative of a child who is the child’s brother, sister, grandparent, aunt, uncle, or first cousin.

⁶⁸ The Title IV-E Foster Care Program provides funds to title IV-E agencies (states and Tribes) to assist 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. Title IV-E foster care funds are awarded to the 50 States, the District of Columbia, Puerto Rico, and federally-recognized Indian Tribes, Indian Tribal organizations and Tribal consortia with approved title IV-E plans, and are available as open-ended entitlement grants through single-year appropriations. The program’s focus, which is articulated in statute, is children eligible under the pre-welfare reform Aid to Families with Dependent Children (AFDC) program and removed from their homes due to maltreatment, lack of care, lack of supervision, or other problems attributed to a relative caregiver. See The U.S. Department of Health and Human Services, *Title-IV-E Foster Care Eligibility Reviews Fact Sheet*, available at <https://www.acf.hhs.gov/cb/fact-sheet/title-iv-e-foster-care-eligibility-reviews-fact-sheet> (last visited January 13, 2022).

⁶⁹ Mark F. Testa and Leslie Cohen, *Pursuing Permanence for Children in Foster Care: Issues and Options for Establishing a Federal Guardianship Assistance Program in New York State*, School of Social Work, the University of North Carolina at Chapel Hill. June 2010, available at <https://ocfs.ny.gov/main/reports/Pursuing%20Permanence%20for%20Children%20in%20Foster%20Care%20June%202010.pdf> (last visited January 11, 2022).

⁷⁰ Section 39.6225(5)(d), F.S.

⁷¹ The Level I child-specific licensure satisfies this requirement.

- Returning home or adoption is not an appropriate permanency option for the child;
- The child demonstrates a strong attachment to the prospective relative guardian and the relative guardian has a strong commitment to caring permanently for the child; and
- The child has been consulted regarding the guardianship arrangement (applicable to children age 14 and older).⁷²

Further, a “relative” must meet certain conditions to qualify for a GAP subsidy, including that he or she must:

- Be the eligible child’s relative or close fictive kin;
- Have undergone fingerprint-based criminal record checks and child abuse and neglect registry checks;
- Be a licensed foster parent and approved for guardianship assistance by the relevant state department;
- Display a strong commitment to caring permanently for the child; and
- Have obtained legal guardianship of the child after the guardianship assistance agreement has been negotiated and finalized with the DCF.⁷³

Child Care Subsidy

In 2020, the average annual cost of center-based infant care in Florida was approximately \$9,312.⁷⁴ Single parents in Florida spend, on average, 34.7% of their income on center-based infant child care.⁷⁵ Married parents of two children living at the poverty line spend approximately 65.0% of their household income for center-based child care.⁷⁶ The average price of center-based infant child care in Florida is currently more than the average annual tuition and fees at a public four-year college or university.⁷⁷

The Rilya Wilson Act

Rilya Wilson disappeared from state custody in January 2001. The child’s caregiver maintained that someone from the DCF removed Rilya from her home sometime in January 2001. The DCF was unaware that the child was missing until April 2002 due to casework failures. While her caregiver was sentenced to 55 years in prison in 2013 for her disappearance, Rilya remains missing.⁷⁸

For a number of children, the increased visibility that participation in early education and childcare programs provides can minimize further abuse, neglect, or abandonment. Participation in these programs can also be an important ingredient in reversing the developmental effects that abuse, neglect, and abandonment can have on children.

⁷² 33 42 U.S.C. s. 673(d)(3)(A)

⁷³ 42 U.S.C. ss. 671(a)(20(D) and 673(d)(3)(A)

⁷⁴ Child Care Aware, *Price of Child Care in Florida*, available at https://info.childcareaware.org/hubfs/2019%20Price%20of%20Care%20State%20Sheets/Florida.pdf?utm_campaign=2019%20Cost%20of%20Care&utm_source=2019%20COC%20-%20FL (last visited January 13, 2022).

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ David Ovalle, Geralyn Graham get 55 years in Rilya Wilson foster child abuse case, MIAMI HERALD, Feb. 12, 2013), available at <http://www.miamiherald.com/latest-news/article1947207.html>. (last visited November 1, 2019)

Early education and child care programs are provided in Florida through the school readiness program under ss. 1002.86-1002.89, F.S. With the establishment of the school readiness program, the different early education and child care programs and their funding sources were merged for the delivery of a comprehensive program of school readiness services to be designed and administered through local early learning coalitions.⁷⁹ The school readiness program is housed with the Office of Early Learning, within the Department of Education.⁸⁰

Historically, children who have been abused, neglected, or abandoned and are being served through the dependency system have received one of the highest priorities for child care service. This is due, at least in part, to the interpretation of earlier statutory language that these children were to be provided the highest priority. Current law requires each early learning coalition to give priority for participation in the school readiness program according to specified criteria with an at-risk child being second on the priority list.⁸¹ However, even with this prioritization, there are often not enough spaces in school readiness programs for all youth who are the subject of dependency proceedings.

Under the Rilya Wilson Act, children in the foster care system who are enrolled in an early education or child care program must be kept in the program and attend the program at least 5 days per week.⁸² The cost of participating in the school readiness program is subsidized in part or fully by the funding of the coalition for eligible children.⁸³ Criteria have been established for the children who are to receive priority for participating in the program at no cost or at a subsidized rate.⁸⁴ The cost of child care shall be assumed by the licensed out-of-home caregiver to the extent that subsidized child care is unavailable.⁸⁵

Tuition and Fee Exemptions for Youth in Foster Care

Youth in foster care face a multitude of barriers when it comes to higher education and as a result the most cited statistic nationally is that about 4 percent graduate from college by the time they're 26, compared to 36 percent of the general population, according to some studies.⁸⁶ Florida was part of the original group of states in the late 1980s that began offering assistance with higher education to students leaving foster care.⁸⁷ There are a number of barriers that continue to keep eligible students from accessing existing state support for higher education.

⁷⁹ Section 1002.83, F.S.

⁸⁰ Florida Division of Early Learning, *About Us*, available at <http://www.floridaearlylearning.com/> (last visited January 13, 2022).

⁸¹ Section 1002.87, F.S.

⁸² Section 39.604, F.S.

⁸³ Florida Division of Early Learning, *School Readiness Program*, available at <http://www.floridaearlylearning.com/parents/family-resources/financial-assistance> (last visited January 11, 2022).

⁸⁴ Florida Division of Early Learning, *School Readiness Eligibility Priorities*, available at <http://www.floridaearlylearning.com/school-readiness/coalitions/eligibility-for-school-readiness> (last visited January 11, 2022).

⁸⁵ Rule 65C-40.005, F.A.C.

⁸⁶ Youth Today, *As More Schools Aid Foster Students, Data on Results Needed, Researchers Say*, available at <https://youthtoday.org/2019/03/as-more-colleges-states-aid-youth-in-foster-care-data-on-results-is-needed-researchers-say/> (Last visited January 10, 2022).

⁸⁷ Section 240.235(6)(a), F.S. (1988).

Florida Law

Florida first enacted a law providing a fee exemption for youth in foster care in 1988.⁸⁸ The initial exemption was provided to young adults in foster care. Before being granted the exemption, students had to apply for and be denied financial aid that covered the payment of all undergraduate fees. The exemption was limited to 4 years (8 semesters) with the possibility of extending to 5 years (10 semesters) if the recipient had to take college preparatory classes or needed extra time to pass communication and computation skills testing. Students had to maintain a 2.0 GPA on a 4.0 scale.

In 1997, the tuition and fee exemption was expanded to all cover all children adopted from the DCF custody after December 31, 1997.⁸⁹ In 2002, the exemption was expanded again to cover a student who is or was at the time he or she turned 18 years old in the custody of a relative in the Relative Caregiver Program.⁹⁰ In 2006, another expansion was granted to any student who after spending at least 6 months in the custody of the DCF after reaching 16 years of age, was placed in a guardianship by the court.⁹¹ More recently, the Legislature, recognizing the difficulties that former foster youth have in completing higher education upon emancipation, expanded the exemption to cover students until age 28 and removed the GPA requirement and the limitation as to the number of credit hours or semesters for which it is available.⁹²

III. Effect of Proposed Changes:

Caregiver Room and Board Payment Rates

The bill makes a number of changes to current law relating to monthly payment amounts for foster parents and relative and nonrelative caregivers. The new rate structure includes increases in the amount of payments to relative and nonrelative caregivers to achieve parity with rates currently paid to Level II through Level V foster parents, while taking into account both non-licensure and levels of licensure and the circumstances of placements.

Specifically, the bill amends s. 39.5085, F.S., to modify current monthly payment amounts for relatives and nonrelatives who have children placed with them in out-of-home care to the same as the rate established in s. 409.145(3), F.S., applicable in current law to Level II through Level V family foster home placements mentioned above. The increased board rates are authorized for children placed in the home while the dependency proceedings are open, provided one of the following instances applies for the specified length of time stated:

- From the date a child who is placed with the relative or nonrelative is found to be dependent, or from the date a child who has previously been found to be dependent is placed in out-of-home care with the relative or nonrelative, until 6 months after such placement, regardless of whether licensure as a child-specific Level I foster placement has been obtained.⁹³

⁸⁸ *Id.*

⁸⁹ Section 240.235(5)(a), F.S. (1997). In 1998 and 1999, the December 31, 1997 dates were changed to May 5, 1997.

⁹⁰ Chapter 2002-38, L.O.F.

⁹¹ Chapter 2006-194, L.O.F.

⁹² Chapter 2010-68, L.O.F.

⁹³ The bill provides that licensure as a child-specific Level 1 foster placement must be obtained no later than 6 months after the date of the placement for that level of payment to continue until the child reaches permanency.

- From the date the caregiver has obtained licensure as a child-specific Level I foster placement at any time after the date of the placement, regardless of whether a court has found that the child is dependent, until the child reaches permanency, as determined by the court under s. 39.621, F.S.

Additionally, the bill modifies the monthly payment amount for relatives and nonrelatives in other ways. First, the bill provides that relatives or nonrelatives who fail to obtain licensure as a child-specific Level I foster placement within 6 months after the date the child is found to be dependent or, after the child has been found to be dependent, is placed in out-of-home care in their home, the caregiver must receive a monthly payment less than the \$333 monthly payment provided to a participant enrolled in GAP, which must be determined in rule. This payment is required to continue from 6 months of the placement until the child reaches permanency as determined by the court under s. 39.621, F.S. However, if the relative or nonrelative caregiver obtains licensure as a child-specific Level I foster placement, he or she again becomes eligible to receive payments at the higher board rate allowable under s. 409.145(3), F.S. This monthly difference between nonlicensed and licensed child-specific Level I placements will create a payment structure that motivates caregivers to get licensed.

The bill maintains current law for relatives or nonrelatives of children who reach permanency in a permanent guardianship but whose relative caregivers are not enrolled in GAP by providing that such caregivers must receive a monthly payment in an amount determined by rule. The maximum amount of the monthly payment that may be established by rule has been adjusted from 82 percent of the statewide average foster care rate to a rate that must be less than the \$333 monthly payment provided to a participant enrolled in the GAP.

The bill does not specify a lower limit on a monthly payment amount that is determined by the DCF rule rather than statute, but does specify a cap as noted above. Relatives and nonrelatives may also be eligible for a special benefit payment that is to be established by rule.

The bill also amends s. 409.145, F.S., applying the current Level II to Level V room and board rate structure to relative and nonrelative caregivers who are licensed as a Level I child-specific foster placement, and to relative and nonrelative caregivers who are participating in the Relative Caregiver Program and receiving payments pursuant to s. 39.5085(2)(d)1. or 2., F.S., as described above. Further, the bill applies the annual cost of living increase and the supplemental payment for teaching life skills and providing normalcy supports to children who are 13-17 years of age to the same caregivers mentioned above.

Early Learning or Child Care Subsidy

In addition to the monthly board rate payments discussed above, the bill amends s. 409.145, F.S., to provide a \$200 per month subsidy to any foster parents and relative and nonrelative caregivers who have a child placed in their home between the ages of birth to school entry. This subsidy is provided regardless of whether the caregiver is licensed or not, but the child must be placed in out-of-home care with the caregiver and be the subject of an open dependency proceeding.

As discussed above, children in the foster care system who are enrolled in an early education or child care program must be kept in that program and attend the program at least 5 days per week.

The cost of participating in the school readiness program is subsidized in part or fully by the funding of the coalition for eligible children, but that funding is only able to be utilized if there is a spot open in a school readiness program. Even if the child is able to be enrolled in a program that qualifies for the school readiness subsidy from the ELC, often that subsidy does not cover the cost of the program and the caregiver is responsible for paying the difference. The subsidy in the bill is therefore intended to help defray the cost of an early learning or child care program.

Postsecondary Tuition and Fee Exemption

As the tuition and fee exemption for students who are or were in out-of-home care under varying circumstances changed and expanded, instances were discovered that appeared to create inequities between similarly situated students and brought to light the issue of reunited students.

The bill addresses some of those issues by expanding the scope of potential students eligible for a tuition and fee exemption at a workforce education program, a Florida College System institution or a state university, to include a student who was the subject of a dependency proceedings and who:

- After reaching 14 years of age, spent at least 18 months in out-of-home care and were then reunited with his or her parents who were the subject of the dependency proceeding before reaching 18 years of age, including a student who was reunited under s. 39.8155, F.S. (reinstatement of parental rights). A student is only eligible for this tuition waiver if, in addition to the above-described factors, the student is also Pell Grant-eligible.⁹⁴
- Were placed in a permanent guardianship, regardless of whether the caregiver participates or participated in the Relative Caregiver Program under s. 39.5085, F.S., and remains in such guardianship either until the student either reaches 18 years of age or, if before reaching 18 years of age, he or she enrolls in an eligible institution.

The bill is effective July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁹⁴ The bill provides that the entity imposing the tuition and fees must verify the eligibility.

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 is expected to have a significant, indeterminate negative fiscal impact on the DCF.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends ss. 39.5085, 409.145, and 1009.25 of the Florida Statutes.

The bill reenacts ss. 393.065 and 409.1451 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.



DOMESTIC VIOLENCE SERVICES

JANUARY 2022

DAMONICA SMITH

OFFICE OF DOMESTIC VIOLENCE

STRUCTURE OF OFFICE OF DOMESTIC VIOLENCE

For over a decade, the Department was statutorily required to contract with the Florida Coalition Against Domestic Violence (FCADV) to deliver domestic violence services.

In 2020, following allegations of financial mismanagement and excessive executive salaries, Governor DeSantis signed legislation to remove FCADV from statute, establish the Office of Domestic Violence within DCF, and elevate the Department's role in the administration and management of Florida's more than \$43,000,000 budget for domestic violence services.

Highlights

- 24 permanent positions
- Enhanced Financial, Contractual, and Programmatic oversight and monitoring
- Organizational Alignment

Office of Domestic Violence (ODV) Leadership and Staffing

- Quality Assurance
- Contracts/Grants
- Operations

Remaining positions to be hired include:

- Programmatic Specialists
- Administrative Support



OUTLOOK

Align domestic violence programming with the goals of the Department – leveraging key moments of impact with a victim and their dependents.

- Increase engagement and intentional collaboration
- Improve the customers' experience
- Build a system of accountability, transparency, and alignment



AWARDED CONTRACT TO NEW PROVIDER

- Invitation to Negotiate to provide domestic violence services:
 - State hotline operations
 - Legal services to support the Injunction for Protection Project
 - Statewide training and technical assistance
- Contract was awarded to the Domestic Violence Collaborative, effective November 2021.
- New contractor represents a conglomerate of three certified domestic violence centers:
 - Women in Distress (Broward County) as the lead, in partnership with
 - The Spring of Tampa Bay (Hillsborough County) and
 - Community Action Stops Abuse (Pinellas County).
- As of December 2021, all service areas have fully transitioned to the Domestic Violence Collaborative.



COLLABORATION

- Calls with Domestic Violence Collaborative leadership will continue during the development and implementation of statewide programming.
- Ongoing bi-weekly/monthly updates and site-visits will continue with center leadership and operations staff related to performance, monitoring, or any emerging needs.
- Throughout 2022, the Department will work closely with the Domestic Violence Collaborative and domestic violence centers to enhance key statewide initiatives such as:
 - Child welfare projects
 - Homicide reduction efforts
 - Primary prevention
 - Rural and underserved
 - Economic justice programming



LEGISLATIVE IMPLEMENTATION: HB 1231

- Effective July 1, 2021
 - Mandates the Department's role in certifying and monitoring of Florida's Batterers' Intervention Programs (BIPs) utilized by the justice system
 - Revises program requirements for BIPs
 - Authorizes the Department to develop rule for certification and monitoring

Updates on Rule Development

- Public workshop on draft rule: July 2021
- Publish final draft of proposed Rule: By March 2022

Next Steps

- Hire 2 BIP positions to facilitate certification and monitoring
- Develop and post certification application and monitoring tools



FEDERAL UPDATES

- U.S. Department of Health and Human Services (HHS), Administration for Children and Families, initiated its process for designating a new coalition in Florida, including conducting town hall meetings and other surveys of stakeholders.
- The Florida Partnership to End Domestic Violence, a non-profit organized by the certified domestic violence center Executive Directors, has notified HHS and the Department that it is applying to obtain state coalition designation.



SAFE AND TOGETHER MODEL

- The model integrates domestic violence advocacy into child protective investigations and child welfare work when there are allegations of domestic violence in the home.
- Each partnered certified domestic violence center has a Memorandum Of Understanding (MOU) with the Department's regional office to support the work at the local level.
 - The MOU establishes the parameters of the project specified to the regional needs.
- The Department's Office of Domestic Violence and Office of Child Welfare are collaborating to enhance pre-service training and develop advanced domestic violence training for Department staff.
 - Seven trainings have been created for the Child Protective Investigator Career Ladder enhancements and will be conducted in Spring 2022.

