



# The Florida Senate

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Committee on Children, Families, and Elder Affairs

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## A REVIEW OF FEDERAL FOSTERING CONNECTIONS IMPLEMENTATION IN FLORIDA

### Statement of the Issue

Signed into law on October 7, 2008, the Fostering Connections to Success and Increasing Adoptions Act of 2008<sup>1</sup> (Fostering Connections) made a number of important changes to improve the lives of children, young adults, and families impacted by the nation's child welfare system. In addition to making additional Title IV-E funds available to states, the intent of the law is to promote permanency and better outcomes for children and young adults through policy changes in seven areas:

- Support for kinship or relative care and family connections;
- Support for young adults aging out of care;
- Coordinated health services;
- Improved educational stability and opportunities;
- Incentives and assistance for adoption;
- Direct access to federal resources for Indian Tribes,<sup>2</sup> and
- Workforce development.<sup>3</sup>

The National Association of Public Child Welfare Administrators surveyed all 50 states and the District of Columbia relating to implementation of Fostering Connections provisions in partnership with Casey Family Programs. States, including Florida, reported varying degrees of progress.<sup>4</sup>

### Discussion

#### Background

##### *Relative Care*

It is generally understood that foster care is a temporary living situation for children who are removed from their homes, and child welfare agencies are required to establish permanent, stable living arrangements for children brought into care. If returning home is not possible or appropriate, agencies must quickly and competently identify another permanent home for these children – preferably through adoption, guardianship, or a less formal

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<sup>1</sup> P.L. 110-351.

<sup>2</sup> There are two federally recognized tribes in Florida, the Seminole Tribe of Florida and the Miccosukee Tribe of Indians of Florida. The Department of Children and Families (DCF or the department) provides child protective investigations and case management services on the Seminole Tribe of Florida reservations at the request of, and in collaboration with, the Seminole Tribe. The Miccosukee Tribe has a tribal court system that handles both child protective investigations and case management on their reservations. At this time DCF does not anticipate either tribe making a request to operate a IV-E program under Fostering Connections.

<sup>3</sup> The availability of federal Title IV-E training dollars is expanded to allow states to seek enhanced reimbursement for costs associated with training private agencies which are defined as "state-licensed or state approved child welfare agencies providing services," as well as court personnel, attorneys, guardians ad litem, court appointed special advocates, prospective relative guardians, and foster and adoptive parents.

<sup>4</sup> National Association of Public Child Welfare Administrators, *Available at:* <http://www.napcwa.org/Legislative/fostering.asp>. (last visited June 28, 2011).

placement with a relative. Current federal law is intended to implement best practice policies and most state laws require that relatives be given priority in placement decisions.<sup>5</sup>

Kinship or relative care has become increasingly important in meeting the needs of children either involved in, or at risk of becoming involved in, the child welfare system. Relative care arrangements prevent large numbers of children from entering the formal child welfare system.<sup>6</sup> Studies have shown that children placed in relative care when compared to children in general care placements:

- Experience greater placement stability and fewer placement changes;
- Have a greater sense of satisfaction with their living arrangement and feel less stigmatized;
- Are less likely to re-enter the child welfare system once reunified with birth parents; and
- Have scores in physical, cognitive, emotional, and skill-based domains more like those of children who are able to remain in their home following a child abuse and neglect investigation.<sup>7</sup>

Despite their important role in ensuring the safety and healthy development of children, relative caregivers often experience hardships and need services and supports. They face a variety of barriers, including difficulties enrolling children in school, accessing and authorizing medical treatment, maintaining public housing leases, obtaining affordable legal service, and accessing a variety of federal benefits and services.

#### *Educational Needs*

For all children, and in particular for children in care, educational coordination, stability, continuity, advocacy and opportunity are essential to academic success. Positive school experiences enhance a child's well-being, help transitions to adulthood be more successful, and increase chances for personal fulfillment and economic self-sufficiency.<sup>8</sup> Studies indicate, however, that children in care have higher rates of school transfer, school absence or tardiness, and suspension and expulsion when compared to similar children who are not in care. They are more likely to receive poor grades, be placed in more restrictive classrooms, perform below grade level, be retained a grade, and receive low scores on state testing.<sup>9</sup> Studies also suggest they are less likely to do their homework, receive help with schoolwork, enroll in college preparatory courses, receive a high school diploma, or participate in post-secondary education.<sup>10</sup>

#### *Health Care*

Children in care have greater health care needs than other children and account for a disproportionate share of public spending on children's health care.<sup>11</sup> Nevertheless, children in care experience serious unmet health care needs. This is due, in part, to placement instability combined with limited coordination and information-sharing between service providers. On average, children placed in care experience one to two changes in homes per year. Placement changes are usually accompanied by changes in physicians and other health care providers, resulting in incomplete health information that is spread across many different sites.<sup>12</sup> In turn, children in care frequently receive incomplete and/or duplicate immunizations and lack proper ongoing primary care, including regular

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<sup>5</sup> Child Welfare Information Gateway. *Out-of-Home Care*. Available at: <http://www.childwelfare.gov/outofhome/overview.cfm>. (last visited July 17, 2011).

<sup>6</sup> Gleeson, James P. *Kinship Care Research and Literature: Lessons Learned and Directions for Future Research*, summary of a presentation entitled *Advocating for Kinship Care as a Valuable Resource for Families* given at Child Welfare League of America's National Conference in Washington, DC, on February 28, 2007. Available at: <http://cwla.org/programs/kinship/kinshipsummer2007.pdf>. (last visited July 18, 2011).

<sup>7</sup> *Id.*

<sup>8</sup> National Conference of State Legislatures. *Educating Children in Foster Care State Legislation 2004 – 2007*. March 2008. Available at: [http://www.ncsl.org/print/cyf/foster\\_care\\_education.pdf](http://www.ncsl.org/print/cyf/foster_care_education.pdf). (last visited July 18, 2011).

<sup>9</sup> *Id.*

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

<sup>11</sup> The Children's Partnership. *Improving Health Outcomes for Children In Foster Care: The Role of Electronic Record Systems*. Digital Opportunity for Youth Issue Brief: January 2009. Available at: <http://www.childrenspartnership.org/AM/Template.cfm?Section=Home&Template=/CM/ContentDisplay.cfm&ContentID=12947>. (last visited July 18, 2011).

<sup>12</sup> *Id.*

assessments of their healthy development and emotional status, along with needed treatment.<sup>13</sup>

**Fostering Connections**

Child welfare experts frequently cite Fostering Connections as the most significant and expansive reform to federal child welfare policy<sup>14</sup> since the Adoption and Safe Families Act (ASFA) of 1997.<sup>15</sup> The legislation includes options for states to consider, as well as specific requirements that must be met. Provisions in the law are aimed at improving the oversight of foster children's health care needs, educational stability, and connection to family members. Generally, the law requires states to:

- Provide educational stability to children in care by ensuring regular school attendance, enabling children to remain in the same school or when a move is necessary, ensuring that transfers occur promptly; and
- Improve health care for children in care by requiring the state child welfare agency to work with the state Medicaid agency to create a plan to better coordinate health care for these children.

In addition, the law provides states the opportunity to provide one or more optional services:

- Allow children who turn 18 in care without permanent families to remain in care to age 19, 20, or 21 with continued federal support to increase their opportunities for success as they transition to adulthood;
- Receive federal funds to assist with subsidized guardianship payments to enable children in care to live in permanent guardianships with grandparents or other relatives. Under certain circumstances, families may continue to receive guardianship assistance until the child reaches age 21. The law also clarifies that states may waive non-safety related licensing standards for relatives on a case-by-case basis; and
- Continue maintenance adoption subsidy payments to families for children who were adopted from care after the age of 16 and who meet certain criteria for continued payments.

Fostering Connections also expands the availability of federal training dollars, on a phased-in basis, to reach more individuals caring for and working with children in the child welfare system, including relative guardians, staff of private child welfare agencies, court personnel, attorneys, guardians ad litem, and court appointed special advocates.

**Implementation in Florida**

FOSTERING CONNECTIONS PROVISION	CURRENT STATUS IN FLORIDA
RELATIVE CARE	
States may establish a Guardianship Assistance Program (GAP) to provide relative guardianship assistance payments on behalf of children to grandparents and other relatives who have assumed legal guardianship of the children and states will be able to use Title IV-E funds for this purpose. <sup>16</sup>	Florida has not exercised the option of providing guardianship assistance payments. To do so would require restructuring the existing Relative Caregiver Program in order to meet federal eligibility requirements. Florida would also have to make statutory changes to the licensure requirements for foster homes. <sup>17</sup>

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

<sup>14</sup> Fostering Connections Resource Center. Available at: [http://www.fosteringconnections.org/about\\_the\\_law?id=0001](http://www.fosteringconnections.org/about_the_law?id=0001). (last visited July 13, 2011).

<sup>15</sup> P.L. 105-89.

<sup>16</sup> States are also allowed to place a sibling(s) of an eligible child in the same relative guardianship arrangement and to make guardianship assistance payments on behalf of those siblings. In order to receive payments, states must negotiate and enter into a written binding relative guardianship agreement with the prospective relative guardian. Those agreements must include certain specified requirements.

<sup>17</sup> See ss. 39.5085 and 409.175, F.S.

States must, within 30 days after the removal of a child from the custody of the parent, exercise due diligence to identify and provide notice to all adult grandparents and other adult relatives of the child. <sup>18</sup>	Florida met all of the provisions of this requirement before Fostering Connections was adopted. <sup>19</sup>
States must make reasonable efforts to place siblings removed from their home in the same foster care, relative guardianship, or adoptive placement and in the case of siblings removed from their home who are not jointly placed, to provide frequent visitation or other ongoing interaction between the siblings.	Florida law provides legislative intent that whenever possible siblings are to be placed together. <sup>20</sup> Rule requires that weekly in-person visitation between separated siblings be recommended to court unless it is deemed not feasible or not in the best interest of one or more of the children concerned. <sup>21</sup>
<b>SUPPORT FOR YOUNG ADULTS</b>	
States may, at their option, continue to provide care and support to a child in care until the age of 19, 20, or 21 if he or she meets certain eligibility criteria. <sup>22</sup> States may also extend adoption assistance and/or guardianship payments on behalf of certain children ages 19, 20, or 21, if they meet the same criteria.	Florida has not exercised this option. Young adults may request to remain under the court's jurisdiction until age 19 or to remain in a foster home or group home, but foster care status is not extended. <sup>23</sup>
Caseworkers and other individuals must provide every child or young adult assistance and support to develop a transition plan during the 90-day period immediately prior to exiting care. The plan must be personalized at the direction of the child or young adult and must include specific options on housing, health insurance, education, local opportunities for mentors, and workforce supports and employment services.	A policy memorandum was sent by DCF to all regional directors that required each CBC and case management organization to develop local procedures to ensure that each child in care has a transition plan developed to meet the requirements of Fostering Connections. Documentation of transition plan development in the Florida Safe Families Network (FSFN) is also required. <sup>24</sup>
Eligibility for the Chafee Foster Care Independent Living Program (ILP) services is extended to children adopted or placed in kinship guardianship after attaining age 16. In addition, eligibility for Education and Training Vouchers (ETV) is extended to children	Florida already offers these services to children who have been adopted or placed into a court approved relative guardianship after attaining the age of 16. However, if the legislature chooses to implement other optional provisions of Fostering Connections, additional

<sup>18</sup> In addition, the state must inform relatives of their options to participate in the care and placement of the child including the requirements to become a foster family home and the additional services and supports that are available for children placed in such a home.

<sup>19</sup> See ss. 39.301, 39.401, and 39.402, F.S. and 65C-30.003, F.A.C., related to diligent search and notification of relatives. See ss. 39.4085, F.S., 65C-28.008, 65C-30.007 and 65C-30.011, F.A.C., and the Relative Caregiver Program Brochure, related to options, services, and supports available to relative caregivers. Brochure available at:

[http://centerforchildwelfare.fmhi.usf.edu/kb/RelCarPrgmPrac/DCF\\_RelCgvrProg.pdf](http://centerforchildwelfare.fmhi.usf.edu/kb/RelCarPrgmPrac/DCF_RelCgvrProg.pdf). (last visited July 29, 2011). See

ss. 39.301 and 39.502, F.S., related to notification exceptions in cases involving domestic violence.

<sup>20</sup> See s. 39.001(1)(k), F.S.

<sup>21</sup> 65C-28.002, F.A.C. When there is a recommendation of no visitation or less than weekly visitation because it is not in the best interest of the child, the court shall be provided clinical documentation of those reasons which must be documented in the case file.

<sup>22</sup> Fostering Connections allows states, at their option, to provide care and support to children in care until the age of 19, 20, or 21 provided that the child is either 1) completing high school or an equivalency program; 2) enrolled in post-secondary or vocational school; 3) participating in a program or activity designed to promote, or remove barriers to, employment; 4) employed for at least 80 hours per month; or 5) incapable of doing any of these activities due to a medical condition.

<sup>23</sup> See s. 39.013, F.S.

<sup>24</sup> The department surveyed the 20 CBC lead agencies and received responses from ten relating to their process for developing the required transition plans. Those ten CBCs self-report that they are in compliance with the law. However, statewide data shows that only 68 percent of 17 year olds have a signed independent living transition plan filed with the court and 53 percent were involved in developing their transition plan. Independent Living Transitional Services Critical Checklist, 2010. Available at: <http://www.dcf.state.fl.us/programs/indliving/docs/ILSurveyChartbook2010.pdf>. (last visited August 2, 2011).

<p>who are placed in a relative guardianship after attaining the age of 16.<sup>25</sup></p>	<p>federal funding may be available to provide these services.</p>
<p><b>COORDINATED HEALTH SERVICES</b></p>	
<p>States are required to develop a plan for the ongoing oversight and coordination of health care services for children in care.<sup>26</sup></p>	<p>The department, working in partnership with state and community stakeholders, began a strategic initiative in February 2009 to improve health and mental outcomes for children and young adults who are in or at risk for involvement with the dependency system. The initiative began with the charge to review the health and mental health needs of children involved in the dependency system and to develop strategies to ensure those needs are met with quality and appropriate services. A multi-agency and stakeholder taskforce<sup>27</sup> was established to address identified issues. The taskforce identified four major goals and work continues toward meeting these goals.<sup>28,29</sup></p>
<p><b>IMPROVED EDUCATIONAL STABILITY AND OPPORTUNITIES</b></p>	
<p>States must add case plan requirements to ensure the educational stability of children in care, including assurances that the state agency has coordinated with appropriate local educational agencies to ensure that the child remains in the school in which the child is enrolled at the time of placement. If remaining in the child's school of origin is not in his or her best interest, the state must assure that the local educational agency provides immediate enrollment in a new school and all of the child's educational records must be provided to the new school. States must also provide assurances that children in care are enrolled in school, home</p>	<p>While there are provisions in statute and rule relating to school attendance and stability,<sup>30</sup> ongoing cooperation between the child welfare and the education systems is insufficient to ensure successful educational outcomes for children in care.<sup>31</sup></p>

<sup>25</sup> Children adopted after the age of 16 are already eligible.

<sup>26</sup> The plan should ensure a coordinated strategy to identify and respond to the health care needs of children in foster care placements, including mental health and dental health needs. The plan should also outline a schedule for initial and follow-up health screening, how health needs identified through screenings will be monitored and treated, how medical information will be updated and appropriately shared, how continuity of health care will be ensured, and how oversight of prescription medications will be achieved.

<sup>27</sup> The stakeholder taskforce has twenty-eight members representing all the health and human services child serving agencies across the state as well as key advocacy and stakeholder groups. A variety of professional disciplines are represented in the membership, including but not limited to fields of medicine, nursing, mental health, legal, insurance, substance abuse, child welfare and public policy making and financing (Medicaid and Health Maintenance Organizations); with professional staff support provided by the department.

<sup>28</sup> Those goals are developing Florida's Health Oversight and Coordination Plan as required in the Fostering Connections Act; advancing the concept of creating a "medical home" for all children in the dependency system identifying any disconnects among various program eligibility determination processes and computer systems and developing strategies for the seamless integration of medical, mental health and substance abuse services with the dependency system.

<sup>29</sup> Statewide data for 2010 shows that 69 percent, 85 percent, 45 percent, and 42 percent of children ages 13-17 in care received dental, physician, mental health, and vision services respectively. Some CBCs have lower outcomes. For children ages 13-17 served by the Sarasota Family YMCA, 25 percent, 50 percent, 25 percent, and 0 percent received dental, physician, mental health and vision services. Independent Living Transitional Services Critical Checklist, 2010. Available at: <http://www.dcf.state.fl.us/programs/inliving/docs/ILSurveyChartbook2010.pdf>. (last visited August 2, 2011).

<sup>30</sup> See ss. 39.0016, 39.6012(2)(b)4., F.S., and 65C-30.006, F.A.C.

<sup>31</sup> Statewide data shows that for children in care ages 13-17, 55% are at or above grade level; 57% who are below grade level are receiving remediation services; 66% have passed their grade level FCAT; 48% who failed their grade level FCAT are receiving tutoring and other services to improve chances of passing; 62% have an educational and career path which has been developed into a written plan; and 60% have an educational and career plan that has been filed with the court. Independent Living Transitional Services Critical Checklist, 2010. Available at: <http://www.dcf.state.fl.us/programs/inliving/docs/ILSurveyChartbook2010.pdf>. (last visited August 2, 2011).

schooled, in an independent study program, or incapable of attending school on a fulltime basis due to the medical condition of the child.	
The definition of a Title IV-E foster care maintenance payment is amended to include the cost of "reasonable travel" for transportation expenses related to allowing a child to remain in the same school he or she was attending prior to coming into care. <sup>32</sup>	Transportation remains an issue as the education and child welfare systems reportedly look to each other to pay for transportation. <sup>33</sup>
<b>INCENTIVES AND ASSISTANCE FOR ADOPTION</b>	
The requirement that states could only claim reimbursement for special needs children adopted from foster care who met Title IV-E income eligibility standards was removed allowing states, over time, to seek reimbursement for adoption assistance payments made on behalf of all special needs children who meet other IV-E eligibility requirements. <sup>34</sup> This is often referred to as the "de-linking" provision.	As federal adoption assistance eligibility expands, states will save money that would have been spent on state only adoption assistance programs.
The Adoption Incentives Program is renewed for five years. <sup>35</sup>	Florida received a \$5,718,271 adoption incentive award for FY 2010 (based on FY 2009 earning year). <sup>36</sup> These funds are used by the department for maintenance adoption subsidies.
States are required to inform prospective adoptive parents of the availability of the federal adoption tax credit.	This information is provided to adoptive parents as part of the discussion relating to the benefits of adopting a child. <sup>37</sup>

<sup>32</sup> Under previous law, states could seek Title IV-E reimbursement for transportation-related expenses as an administrative expense with a 50 percent reimbursement rate. Under Fostering Connections those costs will be reimbursed at the Medicaid matching rate.

<sup>33</sup> Reported by the department on August 112, 2011. Communication on file with the Committee on Children, Families, and Elder Affairs.

<sup>34</sup> The phase-in of the de-linking eligibility provision begins October 2009 for special needs children age 16 or older, and for children who have been in foster care for 60 consecutive months (5 years) or are a sibling to a child who is eligible due to his age or length in foster care. The phase-in spans nine years and will be complete on September 30, 2018. The Act requires that savings resulting from these new Title IV-E eligibility rules must be invested in services (including post-adoption services) provided under Parts B and E of Title IV.

<sup>35</sup> The Adoption Incentives program was created as part of the Adoption and Safe Families Act of 1997 to offer incentive funds to states that increased the number of adoptions from the foster care system. Under Fostering Connections, the adoption incentives were revised to provide stronger incentives for states to increase their efforts to find children adoptive homes, particularly older children and children with special needs. In addition, the law introduced the concept of an adoption rate, which is derived from comparing current year adoptions to the number of children in care at the end of the previous year. States receive additional money if they exceed their highest foster child adoption rate for previous years back to 2002. The Adoption Incentive program gives states \$4,000 for every foster child adopted above their 2007 baseline, plus a payment of \$8,000 for every foster child age nine and older and \$4,000 for every other special needs child adopted above the respective baselines. In addition, states receive \$1,000 for every foster child adopted over and above the level of the state's highest foster child adoption rate for previous years. States have 24 months to use the incentive payments and the payments may only be used to provide services that are allowed under Parts B or E of Title IV.

<sup>36</sup> U.S. Department of Health and Human Services. Administration for Children and Families. Available at: [http://www.acf.hhs.gov/news/press/2010/fy10\\_adoption\\_incentive\\_awards.htm](http://www.acf.hhs.gov/news/press/2010/fy10_adoption_incentive_awards.htm). (last visited August 2, 2011).

<sup>37</sup> This information is also available to adoptive parents in the Florida's Adoption Assistance Program brochure provided by Florida's Adoption Information Center. Available at: <http://www.adoptflorida.com/assistance-program.htm>. (Last visited August 3, 2011) and the Explore Adoption website available at: <http://www.adoptflorida.org/about3.shtml>. (Last visited August 3, 2011).