

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: April 21, 1998 Revised: 4/24/98 _____

Subject: Dependency Proceedings

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Harkins</u>	<u>Moody</u>	<u>JU</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>CF</u>	<u>Withdrawn</u>
3.	_____	<u>Krasovsky</u>	<u>RC</u>	<u>Fav/10 amendments</u>
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

Florida’s Dependency Court Improvement Program (DCIP) was established in 1995 when the U.S. Department of Health and Human Services provided funding to the highest court in every state for a comprehensive research project designed to study judicial management of foster care and adoption proceedings involving dependent children. The bill incorporates the recommendations that evolved from this study.

The bill relocates relevant sections of ch. 415, F.S., into ch. 39, F.S., and reorganizes ch. 39, F.S., to reflect an orderly presentation of the dependency process from intake to case outcome. The bill provides attorneys for parents who qualify under indigency standards at shelter hearings, who will continue representation of those parents throughout the duration of the case. The time from the arraignment hearing to the disposition hearing is shortened from 30 to 15 days for those parents who admit or consent to dependency, and the time from the shelter hearing to the arraignment hearing is lengthened from 14 to 28 days to allow for adequate assessment, case planning, and trial preparation.

The bill limits the number of times a case may be reviewed by a citizen review panel and requires concurrent case planning for children and families under the jurisdiction of dependency court. The bill requires law enforcement checks of individuals residing in a home which is being considered for placement of a child and requires home studies of relatives who may become permanent custodians of a child.

The federal Adoption and Safe Families Act of 1997 was signed into law in November 1997, and the bill provides for the requirements of that legislation. The health and safety of children is required to be the paramount concern in decisions made at all stages of dependency proceedings. In addition, all children in foster care are required to have a permanency planning review hearing

within 1 year from the date of their removal from home, and additional grounds for expediting termination of parental rights under certain circumstances are provided.

The bill amends the following sections of the Florida Statutes: 20.19, 20.43, 39.001, 39.002, 39.01, 39.012, 39.40, 39.401, 39.402, 39.4031, 39.4033, 39.404, 39.405, 39.4051, 39.4055, 39.4057, 39.406, 39.407, 39.408, 39.409, 39.41, 39.4105, 39.411, 39.413, 39.414, 39.415, 39.418, 39.451, 39.452, 39.453, 39.4531, 39.454, 39.455, 39.456, 39.46, 39.461, 39.4611, 39.4612, 39.462, 39.4627, 39.463, 39.464, 39.465, 39.466, 39.467, 39.469, 39.47, 39.471, 39.473, 39.474, 61.13, 61.401, 61.402, 63.052, 63.092, 90.5036, 154.067, 213.053, 216.136, 232.50, 318.21, 384.29, 392.65, 393.063, 395.1023, 400.4174, 400.556, 402.165, 402.166, 409.1672, 409.176, 409.2554, 409.2577, 409.912, 409.9126, 414.065, 415.501, 415.5015, 415.50171, 415.504, 415.5055, 415.507, 415.5077, 415.508, 415.5082, 415.5083, 415.5084, 415.5085, 415.5086, 415.5087, 415.5088, 415.5089, 415.5095, 415.511, 415.512, 415.513, 415.5131, 415.515, 415.516, 415.517, 415.518, 415.519, 415.520, 415.521, 415.522, 415.601, 415.602, 415.603, 415.604, 415.605, 415.606, 415.608, 447.401, 464.018, 490.014, 491.014, 741.30, 744.309, 784.075, 933.18, 943.045, 944.401, 944.705, 984.03, 984.10, 984.15, 984.24, 985.03, and 985.303.

The bill also creates the following sections of the Florida Statutes: 39.0121, 39.301, 39.302, 39.3035, 39.306, 39.395, 39.5085, 39.803, 39.813, 39.816, 39.817, 39.820, 415.5076, and 435.045.

Finally, the bill repeals the following sections of the Florida Statutes: 39.002, 39.0195, 39.0196, 39.39, 39.403, 39.4032, 39.4052, 39.4053, 39.408, 39.449, 39.45, 39.451, 39.457, 39.459, 39.4611, 39.462, 39.4625, 39.472, 39.474, 39.475, 415.5016, 415.50165, 415.5017, 415.50175, 415.5018, 415.50185, 415.5019, 415.502, 415.501, 415.503, 415.505, 415.506, 415.5075, 415.509, and 415.514.

II. Present Situation:

A. General Provisions

Currently, the provisions of Florida law pertaining to children and families involved with the state child protection system are contained in both chs. 39 and 415, F.S. This has resulted in a lack of continuity, a duplicity of language, and confusion in interpretation.

Statements of legislative intent with regard to child safety and protection found in ch. 39, F.S., include the provisions that:

- Judicial and other procedures to assure due process to children and other parties are conducted fairly in order to protect constitutional and other legal rights;
- The health and well-being of all children under the care of the state are promoted; and
- The child's family ties are preserved and strengthened whenever possible, by removing the child from parental custody only when his or her welfare or public safety cannot be otherwise assured.

Children of this state are afforded other general protections to include:

- Protection from abuse, neglect, and exploitation;
- A permanent and stable home;
- A safe and nurturing environment which will preserve a sense of personal dignity and integrity;
- Adequate nutrition, shelter, and clothing;
- Effective treatment for physical, social, and emotional needs;
- Equal opportunity and access to education, recreation and other community resources; and
- Access to preventive services.

Statements of legislative intent with regard to child safety and protection found in ch. 415, F.S., include the provisions that:

- The Legislature recognizes that most families desire to be competent caregivers and providers for their children and that children achieve their greatest potential when families are able to support and nurture the growth and development of their children;
- State intervention should engage families in constructive, supportive, and nonadversarial relationships and should intrude as little as possible into the life of the family; and
- Comprehensive protective services are provided to abused or neglected children found in the state as a result of procedures for required reporting.

Definitions for the terms “abandoned,” “abuse,” “child,” “family,” “parent,” and “protective investigation” are among those found in ch. 39, F.S., while definitions for the terms “abused or neglected child,” “caregiver,” “child abuse or neglect,” “child protection team,” and “harm” are located in ch. 415, F.S.

General provisions currently located in ch. 39, F.S., also:

- Provide immunity from liability for agents of the Department of Children and Family Services (DCF) when acting in good faith with regards to service provision;
- Provide rulemaking authority for the department;
- Provide for the parent’s right to counsel;
- Provide for confidentiality of records required by the chapter; and
- Provide for employment screening of department employees.

B. Reporting Child Abuse

Provisions for the reporting of suspected or known child abuse or neglect are currently contained in ch. 415, F.S. The chapter delineates:

- Who must report;
- Procedures for reporting to the department’s central abuse hotline on the statewide toll-free telephone number as well as procedures for the handling by the department of calls received;
- Procedures for making and receiving reports of institutional child abuse and incidents involving known or suspected juvenile sexual offenders;
- The requirements for the operation of the central abuse hotline;

- The abrogation of privileged communication in cases involving child abuse or neglect;
- Penalties for both failure to report by any person required to report and false reporting; and
- The ability to impose administrative fines up to \$1,000 for false reporting.

C. Protective Investigations

Provisions for protective investigations required as a result of receipt of an oral or written report of known or suspected child abuse or neglect are currently found in ch. 415, F.S.

The chapter provides time frames for the initiation of protective investigations and specifies information that the department is required to provide to any subject of an investigation, including the right of the subject to obtain his or her own counsel and to participate to the fullest extent possible in determining the nature of the allegation and the nature of any identified problem.

When the report on the investigation is deemed to be complete, the department may file a petition for dependency, if it is determined to be in the best interests of the child. The department may elect instead to provide voluntary protective services to the family or the department may refuse to file a petition for dependency and must then advise the complainant of the right to file such petition.

The chapter provides that for each report received, the department shall perform an onsite child protective investigation to:

- Determine the family or household composition, to include identifying information on all individuals residing in the household;
- Determine whether there is any indication of any abuse or neglect of any child residing in the household, the extent of injury, abuse, or neglect, and who is responsible for the abuse or neglect;
- Utilize standardized risk assessment instruments to determine immediate and long term risk to each child;
- Develop a case plan if necessary; and
- Determine the services necessary to ensure and safeguard the child's safety, well being, and development and to provide for delivery of those services.

The chapter also provides procedures for taking a child into custody, procedures for conducting protective investigations of institutional child abuse or neglect, and authorizes the development, maintenance, and coordination of multidisciplinary child protection teams in each of the service districts of the department. Requirements for service provision and case eligibility for those teams are also contained in ch. 415, F.S.

Working agreements with local law enforcement to provide the lead in conducting any potential criminal investigations arising from allegations of child abuse or neglect are also provided for.

D. Family Builders Program

Statutory language relating to the Family Builders Program is currently contained in ch. 415, F.S. Provisions are included for establishment of the Family Builders Program, goals of the program, contracting of services, eligibility for program services, and qualifications of program workers.

E. Taking Children into Custody and Shelter Hearings

Provisions for taking a child into protective custody by medical personnel is currently in ch. 415, F.S. Any person in charge of a hospital or similar institution or any physician or licensed health care professional treating a child may keep that child without the consent of the parents if the situation so warrants. The department must be notified, and if the department determines that the child should remain in protective custody for longer than 24 hours, it shall petition the court for a court order authorizing such custody.

Chapter 39, F.S., contains the provisions for a child alleged to be dependent to be taken into custody by law enforcement officers and authorized agents of the department. A child may only be taken into custody pursuant to an order of the court issued pursuant to the provisions of the chapter based upon sworn testimony, either before or after a petition is filed, or by a law enforcement officer or an authorized agent of the department if there is probable cause to support a finding of reasonable grounds for removal and that removal is necessary to protect the child. Reasonable grounds are specified.

A shelter hearing must be held within 24 hours after the removal of the child, and parents or legal custodians of the child shall be noticed of the hearing. At the shelter hearing, the court shall appoint a guardian ad litem if warranted, the department must establish probable cause that reasonable grounds for removal exist and that the provision of services will not eliminate the need for placement, and each party shall provide to the court a permanent mailing address to be used for future notice purposes.

F. Petitions, Arraignment, Adjudication, and Disposition

Chapter 39, F.S., contains statutory provisions for dependency petitions. A petition for dependency may be filed by an attorney for the department, or by any other person who has knowledge of the facts alleged or is informed of them and believes that they are true. The filing of the petition initiates all proceedings seeking an adjudication of dependency for a child. Information to be included in the petition is delineated and procedures for notice, process, and service to the parents is provided for.

Special procedures when the identity or location of the parent is unknown and the requirements for diligent search are also contained in ch. 39, F.S.

When a child is detained by order of the court, an arraignment hearing must be held within 14 days from the date the child is taken into custody for the parents to admit, deny, or consent to findings of dependency alleged in the petition. If a parent denies the allegations, an adjudicatory hearing must be held within 7 days from the date of the arraignment unless a continuance is granted. Grounds for continuance are specified.

Failure of a person served with a notice to respond or appear at the arraignment hearing constitutes the person's consent to a dependency adjudication.

At the arraignment hearing, the court shall:

- Order visitation rights unless there is clear and convincing showing that visitation is not in the best interest of the child;
- Determine whether the department has made a reasonable effort to prevent or eliminate the need for removal or continued removal of the child from the home. If the court determines the department has not made such an effort, the court shall order the department to provide appropriate and available services;
- Review the necessity for the child's continued placement in shelter; and
- Provide all parties with written notice of the date, time, and location of the next scheduled hearing.

The adjudicatory hearing shall be held as soon as practicable after the petition for dependency is filed and in accordance with the Florida Rules of Juvenile Procedure. Adjudicatory hearings are to be conducted by a judge with no jury, and shall be open to the public unless ordered closed by the judge.

If the child named in the petition is found to be not dependent by the court, the court shall enter an order so finding and dismiss the case. If the child named in the petition is found to be dependent by the court, the court may find that no other action is needed other than supervision in the child's home; the court may so order and withhold adjudication. The court may also order adjudication of the child, and thereafter have full authority to provide for the child as adjudicated.

If, at the disposition hearing, the court finds that the facts alleged in the petition for dependency were proven in the adjudicatory hearing or if the parents have consented to the finding of dependency or admitted to the allegations in the petition, or the parents have failed to appear for the arraignment hearing after proper notice, or have not been located despite a diligent search, the court shall receive and consider a predisposition study. Information to be included in the predisposition study, placement options available to the court, and information to be included in the written order of disposition is prescribed in ch. 39, F.S.

G. Case Plans

Statutory language relating to case plans is currently found in ch. 39, F.S. The department or agent of the department shall develop a case plan for each child or child's family receiving services who is a party to any dependency proceeding or process. The case plan must be:

- Developed in conference with the parent, guardian, custodian, or any court-appointed guardian ad litem of the child;
- Written simply and plainly in English, or to the extent possible, in the principal language of the parent;
- Subject to modification based on changing circumstances;

- Signed by all parties; and
- Reasonable, accurate, and in compliance with the requirements of the court order.

When the child is receiving services in the child's home, the case plan must be developed within 30 days from the date of the department's initial contact with the child, or within 30 days of the date of a disposition order placing the child under the protective supervision of the department in the child's own home. Specific requirements of the case plan are further delineated in s. 39.4031, F.S. In the event the parents are unwilling or unable to participate in the development of a case plan, this shall be documented by the department.

In addition, case plans must be limited to as short a period as possible for the accomplishment of its provisions, must meet federal and state requirements, and must be prepared, but not submitted, to the court, for a child who will not be in care for longer than 30 days.

At the hearing on the plan, the court shall determine:

- That all parties who were noticed are in attendance;
- If the plan is consistent with previous orders of the court placing the child in care;
- If the plan is consistent with the requirements of the content of the plan;
- In involuntary placements, whether the parents were notified of the right to counsel at each stage of the dependency proceedings;
- Whether each parent whose location was known was notified of the right to participate in preparation of the case plan; and
- Whether the plan is meaningful and designed to address facts and circumstances upon which the court based the finding of dependency or upon which the child was placed in foster care.

H. Judicial Reviews

Currently, the statutory provisions relating to judicial reviews are contained in ch. 39, F.S. The court shall have continuing jurisdiction in accordance with this section and shall review the status of the child as required by s. 39.453, F.S., or more frequently if the court deems it necessary or desirable.

Citizen review panels may be established to conduct a review of the status of the child. Requirements for the administration of the panels, qualifications, training, selection, and retention of their members, and the duties of the panels are set forth in s. 39.4531, F.S.

I. Termination of Parental Rights

Statutory provisions for procedures for termination of parental rights are currently in ch. 39, F.S. All proceedings seeking an adjudication to terminate parental rights pursuant to the chapter must be initiated by the filing of an original petition by the department, the guardian ad litem, a licensed child-placing agency, or by any other person who has knowledge of the facts alleged or is informed of them and believes that they are true.

A petition for termination of parental rights filed must contain facts supporting the following allegations:

- That at least one of the grounds listed in the chapter have been met;
- That the parents of the child were informed of their right to counsel at all hearings that they attend and that a dispositional order adjudicating the child dependent was entered in any prior dependency proceeding relied upon in offering a parent a case plan; and
- That the manifest best interests of the child would be served by granting the petition.

Currently, the grounds for termination of parental rights are:

- When the parent or parents voluntarily executed a written surrender;
- When the identity of the parent or parents is unknown and cannot be ascertained by diligent search within 90 days;
- When the parent or parents engaged in conduct toward the child or toward other children that demonstrates that the continuing involvement of the parent or parents threatens the life or well being of the child, irrespective of the provision of services;
- When the parent of a child is incarcerated under certain specified circumstances;
- When a child has been adjudicated dependent, a case plan has been filed with the court, and the child continues to be abused, neglected, or abandoned by the parents under specified circumstances; and
- When the parent or parents engaged in egregious conduct that endangers the life, health, or safety of the child or the child's sibling, or had the opportunity and capability to prevent the egregious conduct and failed to do so.

The chapter also contains provisions for notice of all proceedings to parents, notice of right to counsel, appointment of a guardian ad litem, and powers of disposition.

J. Guardians Ad Litem and Guardian Advocates

Statutory provisions relating to guardians ad litem and guardian advocates are currently in ch. 415, F.S. The terms "guardian ad litem" and "guardian advocate" are defined as well, as qualifications, grounds for appointment, and duties, powers, and responsibilities are delineated.

K. Domestic Violence

Statutory provisions relating to domestic violence are currently in ch. 415, F.S. Domestic violence is defined to mean any assault, battery, sexual assault, sexual battery, or any criminal offense resulting in physical injury or death of one family or household member by another who is or was residing in the same single dwelling unit.

The duties and functions of the department with respect to domestic violence, as well as certification of domestic violence centers, are also provided for in ch. 415, F.S.

III. Effect of Proposed Changes:

A. General Provisions

Certain provisions regarding purpose and legislative intent as they relate to child protection issues are being relocated from ch. 415, F.S., to ch. 39, F.S., in order to create one clearly sequenced statutory scheme. The relocation would eliminate inconsistencies and redundancies currently found in statute. This would result in a reduction of divergent applications of the statutory provisions by both the districts and the judiciary. The requirement by the federal Adoption and Safe Families Act of 1997 that the health and safety of the children served shall be of paramount concern is reflected in Part I of ch. 39, F.S.

All references to the Department of Juvenile Justice and delinquent children are deleted and all references to the family services response system are replaced with the term “child protection system.”

The Department of Children and Family Services currently requires employment screening and the bill provides for rescreening every 5 years. The bill also requires drug testing of department protective investigators.

The bill provides several definitions that would be new to ch. 39, F.S. The definition of “adoption” has been moved from ch. 63, F.S. Definitions of the terms, including, but not limited to, “alleged juvenile sexual offender,” “child protection team,” “sexual abuse of a child,” and “harm” have been moved from ch. 415, F.S. New definitions of the terms, “expedited termination of parental rights” and “shelter hearing” are included at the recommendation of the Dependency Court Improvement Program, and the new definition of the term “legal guardianship” is required by federal legislation.

The bill clarifies juvenile court jurisdiction over adoptions, kinship care, and guardianship proceedings, which may serve to reduce the number of dependency cases by diverting proceedings to ch. 744, F.S., guardianship, or ch. 751, F.S., kinship care.

The bill provides for indigent parents to have continued representation by counsel throughout the entirety of dependency proceedings and would allow counties to establish their own individual compensation rates for appointed counsel in dependency proceedings other than termination of parental rights proceedings.

B. Reporting Child Abuse

The bill relocates the statutory provisions that relate to the reporting of child abuse, abandonment, and neglect from ch. 415, F.S., to ch. 39, F.S. The bill also removes references to the family service response system and replaces that term with “child protection system” where appropriate.

House Bill 3883 provides that except as provided in s. 39.202(2)(a) and (h) contained in the bill, information in the central abuse hotline and the department's automated abuse information system may be used by the department, its authorized agents or contract providers, the Department of Health, or county agencies as part of the licensure or registration process pursuant to ss. 402.301-402.319, F.S.

The bill increases the maximum amount of an administrative fine that may be imposed for false reporting from \$1,000 to \$10,000.

C. Protective Investigations

The bill provides that the provisions relating to child protective investigations currently contained in ch. 415, F.S., are relocated to ch. 39, F.S.

The bill provides that if the department or its agent is denied reasonable access to a child by the parents, legal custodians, or caregivers, and the department deems that the best interests of the child so require, it shall seek an appropriate court order or other legal authority prior to examining and interviewing the child. If the department interviews the child, the interview must be audio-recorded or videotaped.

The bill provides that state and federal records checks are required on the parents, legal custodians, caregivers, or any other persons in the same household for purposes supporting the detection, apprehension, prosecution, pretrial release, post-trial release, or rehabilitation of criminal offenders or persons accused of the crimes of child abuse, abandonment, or neglect. The information shall not be further disseminated or used for any other purpose.

The bill provides that the Department of Law Enforcement shall provide to the Department of Children and Family Services electronic access to Florida criminal justice information as specified for the purpose of child protective investigations and emergency child placement.

Part III of ch. 39, F.S., provides procedures for standards and funding of Children's Advocacy Centers.

D. Family Builders Program

The statutory provisions governing issues relating to the Family Builders Program are being relocated to a newly created Part IV of ch. 39, F.S. The language is amended to conform and to reflect cross references. In addition, the first goal of the program shall be to ensure the health and safety of the child while working with the family, as required by the federal Adoption and Safe Families Act of 1997.

E. Taking Children into Custody and Shelter Hearings

This newly created part of ch. 39, F.S., requires that any placement of a child which is not in a licensed shelter must be preceded by a local and state criminal records check, as well as a search of the department's automated abuse information system, on all members of the household to assess the safety of the child within the home.

The bill provides for the new federal requirement that parents have the right to be represented by counsel at the shelter hearing and at each subsequent hearing or proceeding. If indigent, parents have the right to appointed counsel at the shelter hearing and at each subsequent hearing or proceeding.

F. Petitions, Arraignment, Adjudication, and Disposition

The bill adjusts the time frames in dependency proceedings while maintaining judicial control over the child's placement in shelter. A petition alleging dependency must be filed within 7 days upon demand of a party, but no later than 21 days after the shelter hearing. When a child has been detained by order of the court, an arraignment hearing must be held within 7 days after the date of filing of the dependency petition. If the parents consent or admit to the allegations in the petition, the court shall hold a dispositional hearing no more than 15 days after the date of the arraignment hearing, unless a continuance is necessary. If the parents deny the allegations of the petition, an adjudicatory hearing must be held no later than 30 days after the arraignment.

This newly created part of ch. 39, F.S., provides for the federal requirement that the Department of Children and Family Services have access to the federal and state parent locator service for diligent search activities.

The bill also provides that if the child has been removed from the home and will be remaining with a relative or caregiver, a home study report shall be included in the predisposition report. The information required to be included in the home study is delineated by the bill. The elements of the home study would be uniform regardless of the type of placement and would be applicable to temporary, long-term, and adoptive placements.

G. Case Plans

The bill adjusts time frames and requirements for case plans to conform with the adjusted time frames for hearings and other proceedings in the dependency process. The adjustments come at the recommendation of the Dependency Court Improvement Program.

The bill also provides for the requirement of the new federal legislation that, in the case of a child for whom the permanency plan is adoption or placement in another permanent home, documentation must be made of the steps the agency is taking to find an adoptive family or other permanent living arrangement, and to finalize the adoption or legal guardianship. At a minimum, such documentation shall include child-specific recruitment efforts such as the use of state, regional, and national adoption exchanges, including electronic adoption exchanges.

The bill reduces from 18 to 12 months, the allowable time period for a case plan to remain in effect without specific judicial review of permanency options.

H. Judicial Reviews

The newly created Part VIII of ch. 39, F.S., provides for restrictions on the citizen review panels. Any party may object to the referral of a case to a citizen review panel, and when such objection has been filed with the court, the court shall review the substance of the objection and may conduct the review itself or refer the review to a citizen review panel. Citizen review panels shall not conduct more than two consecutive reviews without the child and the parties coming before the court for a judicial review.

The bill provides for judicial reviews at intervals of 6 months for all children in out-of-home care. As required by the new federal legislation, exceptions to the filing of a termination of parental rights (TPR) petition are provided. A TPR petition need not be filed if: the child is being cared for by a relative who chooses not to adopt the child; the court determines that filing such a petition would not be in the best interests of the child; or the state has not provided to the child's family, when reasonable efforts to return the child are required, such services as the state deems necessary for the safe return of the child to his or her home.

I. Termination of Parental Rights

The bill adds new grounds for termination of parental rights as required by the 1997 federal legislation. The new grounds, subject to certain exceptions, include subjecting the child to: aggravated child abuse, sexual battery or sexual abuse, or chronic abuse; murder, voluntary manslaughter or felony assault of another child, or aiding, abetting, attempting, conspiring, or soliciting to commit such acts; and involuntary termination of parental rights to a sibling. The bill also provides for the new federally required time limits for compliance with regard to state implementation of the additional TPR grounds.

The bill also provides statutory authority for the use of concurrent case planning, as required by federal legislation.

J. Guardians Ad Litem and Guardian Advocates

The statutory provisions governing issues relating to guardians ad litem and guardian advocates are being relocated from ch. 415, F.S., to a newly created Part X of ch. 39, F.S. The current language is amended only to conform and reflect cross references.

K. Domestic Violence

The statutory provisions governing issues relating to domestic violence are being relocated to a newly created part X of ch. 39, F.S. The language is amended only to conform and reflect cross references.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Children and Family Services has estimated that for FY 1998-99, it will need \$597,026 for additional hearings and \$143,250 for audio-recording and videotaping. For subsequent years, the department estimates that it will need \$1,362,336 per year, plus clerical support, for extra hearings, and \$72,000 for audio-recording and videotaping.

The estimates for the hearings were derived as follows. The department reports that five additional hearings are proposed in the bill. The department makes the following assumptions: each of the two new judicial reviews would run ½ hour, for a total of 1 hour; each of the two new shelter hearings would run ½ hour, for a total of 1 hour; and the termination of parental rights status conference would run 1 hour. Based on these assumptions, the additional hearings represent a total of 3 additional hours of court time. The department also assumes that 2 hours of legal preparation time are required for every hour of court time. Based on these assumptions, the total additional legal and casework time would be 9 hours.

Based on the department's estimates that there are 10,000 children in care, the additional hearings represent 90,000 additional legal and casework hours per year if every child were to

require all hearings. The department assumes that each child would require at least one hearing, and that the total would average 30,000 additional attorney and casework hours per year.

The department estimates that available senior attorney hours equal 1,872 hours per year and that available casework hours equal 1,928 hours per year. The 30,000 additional hours would require 16.025 additional attorneys and 15.56 caseworkers. Rounded off, this equals 16 attorneys and 16 caseworkers. The department noted that adequate clerical support, either FTE or OPS, also needs to be considered, but did not provide an estimate.

The department derived the estimates for the fiscal impact of the requirement for the department or "any agency" to audio-record or videotape all interviews with a child as follows. The requirement would include circuit guardian ad litem programs as well as private agencies who contract with the department to assess or treat children. Equipment costs as well as cost of tapes and storage would have to be considered. Video-cameras range from \$600 to \$1,200 each, for an average of \$900. Five cameras per district would total \$67,000 for initial startup. Video-tapes cost an average of \$2 each, so that at an average of 100 tapes per district per month would cost \$36,000 per year. Tapes could not be reused since they would become a part of the case record. Audio-recorders cost from \$35 to \$65 each, for an average of \$50. Five tape recorders per district would total \$3,750. An average of 100 tapes per district at \$2 each would equal \$36,000 per year. These tapes could also not be reused. The total first year startup costs to the department for videotaping, including tapes, would be \$103,500. The total first year startup costs to the department for audio- recording, including tapes, would be \$39,750. Recurring costs to the department for either audio-recording or videotaping would be \$36,000 per year.

Total cost of videotaping to the statewide guardian ad litem program, conservatively based on one video camera for each of the 20 judicial circuits, and 100 tapes per month per circuit would be \$66,000 for the first year startup costs and \$48,000 per year recurring costs for tapes. Total cost of audio-recording to the statewide program, conservatively based on two tape recorders per circuit and 100 tapes per month per circuit would be \$50,000 for the first year startup costs, and \$48,000 per year recurring cost for tapes.

Cost to private agencies for videotaping, assuming that four contracted private agencies per district, each purchasing one video camera, conduct a total of 100 interviews or counseling sessions per month, would be \$90,000 total startup costs for the first year, and \$36,000 recurring cost for tapes per year. Costs for audio-recording, assuming the same four contracted private agencies per district, each purchasing two tape recorders, conduct the same number of interviews per month, would be \$39,000 for the first year startup costs and \$36,000 per year recurring costs for tapes.

The bill provides for attorney representation of parents in dependency court proceedings. The department estimates that General Revenue dollars would be reimbursed to counties on a

case-by-case basis as follows \$4,998,800 in FY 1998-99; \$5,248,740 in FY 1999-2000; and \$5,511,177 in FY 2001-01.

Finally, as to drug testing of prospective investigators, there are currently 830 protective investigators statewide. At an average cost of \$15 per test, the total first year cost for testing would be \$12,450. The annual turnover rate for protective investigators averages 20 percent, thus continuation cost would be \$2,490 per year.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Rules and Calendar:

Adds an analogous term of art for clarity (“psychological or mental health”).

#2 by Rules and Calendar:

Provides that local law enforcement agencies investigate to determine if sufficient evidence exists to prosecute for filing a false report. During pendency of the investigation, law enforcement agencies must respond to all subsequent reports concerning the same child pursuant to new, extensive provisions in the committee substitute. If the law enforcement agency believes that there are indicators of abuse or neglect, it must immediately notify the department. Provides for the Department of Children and Family Services to report annually to the Legislature the number of reports of child abuse, abandonment, or neglect referred to law enforcement agencies; clarifies information to be included in the report; specifies the implication in the bill that law enforcement *knows* of the subsequent reports to investigate them; increases penalty for false report; provides or corrects cross-references.

#3 by Rules and Calendar:

Changes the standard of proof from “clear and convincing evidence” to “a preponderance of the evidence” for an administrative judge to determine that a *false* report of child abuse was filed with the central abuse hotline for purposes of imposing an administrative fine.

#4 by Rules and Calendar:

Deletes a line with no new language added. Amendment is technically incorrect.

#5 by Rules and Calendar:

Requires that a physician or medical facility must receive oral or written authorization from a judge before detaining a child in protective custody without parental consent in cases of suspected abuse, neglect, or abandonment.

#6 by Rules and Calendar:

Deletes arcane terminology from catch line.

#7 by Rules and Calendar:

Deletes reasons for which the adjudicatory hearing may be held. Those reasons are: for investigative purposes, discovery purposes, or for procuring counsel or witnesses.

#8 by Rules and Calendar:

Extends from 48 to 72 hours the time requirement for filing and serving a case plan and predisposition study.

#9 by Rules and Calendar:

Requires the court to determine at every review hearing which parent, if either, shall have custody of the child, rather than only at review hearings held every 6 months.

#10 by Rules and Calendar:

Adds the Department of Children and Family Services to the term “criminal justice agency” as that term is used in the various sections of the bill.