

**STORAGE NAME:** h1145s1.cfs.doc  
**DATE:** March 22, 2001

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
CHILD AND FAMILY SECURITY  
ANALYSIS**

**BILL #:** CS/HB 1145  
**RELATING TO:** Foster Care  
**SPONSOR(S):** Committee on Child & Family Security, Representative(s) Murman and Rich  
**TIED BILL(S):**

**ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:**

- (1) CHILD & FAMILY SECURITY YEAS 10 NAYS 0
  - (2) HEALTH & HUMAN SERVICES APPROPRIATIONS
  - (3) COUNCIL FOR HEALTHY COMMUNITIES
  - (4)
  - (5)
- 

**I. SUMMARY:**

This bill addresses continued problems in the foster care system. Florida's foster care system has been overwhelmed with many problems during the past several years. Between FY 1995-96 and FY 1999-2000, it experienced a 29 percent increase of (4,329) children, in foster care. Problems include an inadequate number of foster homes, foster home overcrowding, excessive lengths of stay and multiple placements, an increase in the number of foster care children with behavioral problems or special needs, children running away, and children "growing up" in foster care until they reach age 18.

The Legislature established s. 409.1671, F.S., in 1994, and amended it subsequently, to require the Department of Children and Family Services to provide better services through community-based care, by privatizing state foster care and related services, by January 1, 2003.

The bill provides an alternative to competitively procuring a lead agency for foster care and related services through contracting for some services as a phase in to full privatization, when the department is not successful in recruiting an eligible lead community-based provider.

The bill also requires the department to assess a child, 12 or older, who has been in foster care 6 months with more than one foster home, for placement in licensed residential care if appropriate.

The bill establishes two strategies to provide comprehensive residential care services at a fixed price within the private sector, subject to specific appropriation. 1) It provides for expanded residential care capacity in Districts 4, 11 and 12 and the Suncoast, prototype region defined in s. 20.19, F.S., (Hillsborough, Manatee, Pinellas, Pasco, Sarasota and Desoto counties). 2) It creates model programs to be contracted in Dade, Hillsborough and Manatee counties to contract for the full range of out-of-home and related services for a portion of children. The bill provides for time frames, reports to the Legislature, and an independent annual evaluation for these strategies.

The bill includes provisions that allow for a family foster home license to be valid for longer than 1 year. Upgrades the seriousness of the offense if a person commits assault or battery against an employee of a lead community-based provider and its direct service providers. This affords them the same protection now provided to public officials and to department employees doing the same work.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |                             |   |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

**THE CHILD PROTECTION SYSTEM AND FOSTER CARE**

The Child Protection Program in the Department of Children and Family Services is comprised of five major services—the Florida Abuse Hotline, protective investigations, in-home services, out-of-home services, and adoptions. Chapter 39, F.S., requires that any person who knows or suspects that a child is being abused or neglected must report the information to the Florida Abuse Hotline. The Child Protection Program conducts a protective investigation within 60 days to assess the child's safety and determine services that may be needed. When it is safe for a child to remain with his or her parents or other family members, in-home services may be provided. When there is the likelihood that the child will continue to be at risk of abuse or neglect if she remains in the home, a child is placed in out-of-home care.

**Out-of-home care** includes relative and non-relative care services and foster care services.

- **Relative Care Services** enable high-risk children who are unable to remain in their homes to be placed in the care of relatives, including grandparents, siblings, first cousins, nephews, and nieces.
- **Non-Relative Care Services** enable children who are unable to be placed with relatives to be placed in the care of an unrelated adult. These adults must be known and approved of by the family. The court has the authority to place children in unlicensed, non-relative placements after the department has determined that the home is a safe, secure, and suitable environment for the child. As of June 2000, 16,428 children were receiving relative and non-relative care services.
- **Emergency shelter care** provides children with a short-term placement, on a 24-hour, seven-day-a-week basis, for the immediate care of children alleged to be dependent, pending a court disposition, before or after adjudication, or awaiting placement following a disposition hearing.
- **Foster Care Services** are the most intensive out-of-home service option for children who are at high risk of continued abuse or neglect. Abused children may be legally removed from their homes and may be ordered by courts to be placed in foster care.
- **Residential group care** is a purchase of service program for foster care children who are older and have specialized needs that are better met in this type of living environment.

In June 2000 a total of 19,361 children were receiving services in foster care settings.

## **Foster Care and Residential Group Care**

Foster care is the most intensive out-of-home service. The Child Welfare League of America reports that children in foster care are three to six times more likely than children not in care to have emotional, behavioral and developmental problems, including conduct disorders, depression, difficulties in school and impaired social relationships. Some estimates are that about 30 percent of the children in care have marked or severe emotional problems. According to statistics from the department, approximately 3 percent of the children who are the subject of a child abuse investigation are placed in foster care or residential group care.

Providers of foster care services are reimbursed according to the child's age and the level of care required. The statewide average monthly reimbursement rate per child for foster care was \$672 in January 2001. The average monthly rate per child for residential group care was \$2,796. Provider rates are negotiated at the local community level to reflect the service needs of the children served.

Family foster homes are licensed under s. 409.175, F.S., which specifies in s. 409.175(5)(i), F.S., that a license is valid for only 1 year. During FY 1999-2000, there were 15,276 children served in family foster home care. This was an increase of 9.29% over the number of children served in FY 1998-99 when 13,977 children were served in family foster homes.

Residential group care facilities are group living environments licensed under s. 409.175, F.S. as child-caring agencies. Staffing of such facilities may be provided by live-in house parents or by staff who work in rotating shifts. During FY 1999-2000, there were 2,400 children served in residential group care. This was a 3% increase over the number of children served in FY 1998-99 when 2,340 children were served in residential group care, although the proportion of all children in care who are served in residential group care declined.

## **Problems in the Foster Care System**

Between FY 1995-96 and FY 1999-2000, Florida's foster care system experienced a 28.8% increase or 4,329 additional children in foster care placements. Florida's foster care system has been overwhelmed with many problems during the past several years as evidenced by several law suits, grand jury investigations, and special investigations. These problems include foster home overcrowding, an inadequate number of foster homes, excessive lengths of stay in foster care, multiple foster home placements, limited use of residential group care, an increase in the number of foster care children with behavioral problems or special needs, children running away from foster care placement, and children "growing up" in foster care by entering the foster care system as children and remaining until at least their 18th birthday.

In the past 2½ years, the number of children in state custody in District 7, for example, increased from 1,200 to 2,000. District 7 only gained 100 foster home beds during that period. Foster home overcrowding became such a problem in District 7 in 1999, that the department's district budget paid for children and staff to be housed in motels. The department stated at that time that overcrowding of foster homes "places children at serious risk of being harmed by other children, places unrealistic expectations for care and supervision on foster parents, and ultimately leads to the rapid turnover" of foster homes.

Achieving and maintaining permanency is also a problem. The department reports that of those children who entered foster care or residential group care between October and December 1999, only 32.3% left care during the following 12 months.

- According to the department, the median length of stay for children in foster care and residential group care on January 12, 2000, statewide was 26.1 months and the average length of stay was 37.2 months.
- Many children in foster care are moved from home to home as shown in the department's statistics. During FY 1999-2000, 42 percent (4,600) of the children in foster care statewide had three or more placements after being removed from their caregiver and prior to their final permanent arrangement (reunification, adoption, or independent living).
- Data show that 599 children had 10 or more placements during FY 1999-2000. According to data maintained for the FFY 2000 Adoption and Safe Families Act, 34.5% of children in care had three or more placements that lasted 48 or more months.

Many children grow up in care. From October 1, 1999, to September 30, 2000, 862 children discharged from care were 18 years of age or older. Of those children, 8 children had 31 or more placements; 239 children had been in care from 5 to 10 years; 43 children had been in care from 11 to 15 years; and 5 children had been in care for 16 years or more.

The number of children who run away has increased. Departmental data indicate that 4,796 children in out-of-home care ran away from placement during FY 1999-2000. This was a 27 percent increase from the number of runaways in FY 1998-1999.

Residential group care that might provide more stable and supportive care is underutilized by the department's caseworkers. The department reports that only 11 percent of the children and adolescents in foster care were placed in residential group care during FY 1998-99, 10 percent in FY 1999-00, and 11 percent thus far in FY 2000-01. The utilization rate of residential group care in some counties is as low as 3 percent.

The Justification Review of the Child Protection Program in the Department of Children and Family Services, February 2001, by OPPAGA, supports this information from the department. The review also found the turnover rate for family service counselors, positions assigned to protective investigations, protective supervision, and foster care, was 24.2% for FY 1999-2000, compared to a turnover rate of 8.3% for all state employees.

## **Lawsuits**

The Ward vs. Feaver lawsuit in Broward County and the Foster Children vs. Jeb Bush, Kearney, etc. al. lawsuit allege numerous problems associated with the foster care system:

- Not properly moving children to permanency as evidenced by overcrowded and unsupervised foster homes and other facilities, which often leads to exposing children in custody to the imminent risk of sexual and other abuse, neglect, and other dangers.
- Failure on the part of the state to develop an array of foster care settings to ensure a safe and secure placement for each foster child, particularly in respect to foster homes for large sibling groups and teenagers;
- Multiple moves including night-to-night placements and sleeping in motels, which are "traumatic to a child, undermining the child's stability and security and causing the child to suffer an injury."
- Putting children at risk of harm because of improper placement as occurred in Broward County where more than "400 foster care children were placed in overcrowded foster and shelter homes that exceeded their licensed capacity."
- Failure by the caseworkers in Broward County to conduct the required monthly visits.

- Keeping dependent children in Florida foster care for an average of 33.8 months (May 2000) which exceeds the 12-month standard for planning for the child's permanency specified in the federal Adoption and Safe Families Act and specified in s. 39.701(8)(f), F.S.

## **COMMUNITY-BASED CARE**

There is some confusion over the use of the term "community-based care" for privatized foster care and related services. Section 409.1671, F.S., relating to privatization of foster care and related services, also refers to these services as "child protective services", and the term "child welfare services" is also used. The term, "community-based care," currently used by the department for these services has been used generically for 25 years to describe all programs and services provided in the community, whether by the state or through contract with private providers. Community-based care is used not only for foster care and related services, but also for mental health, substance abuse, developmental services and other support services for children, families and adults.

### **Section 409.1671 – Privatization of foster care and related services**

The Legislature established s. 409.1671, F.S., in 1994, and amended it subsequently, to require the Department of Children and Family Services to provide better child protective services by privatizing state foster care and related services to establish increased community-based care in this area. The department must develop a plan that meets specific conditions to guide the conversion from state operated to a private system that include alternative strategies for areas of the state where obstacles exist to meeting the time frame for this effort. Privatization is to be completed by January 1, 2003. In addition to foster care, the related services that would be privatized as delineated in s. 409.1671, F.S., include:

- Family preservation
- Independent living
- Emergency shelter
- Residential group care
- Therapeutic foster care
- Intensive residential treatment
- Foster care supervision
- Case management
- Post-placement supervision
- Permanent foster care
- Family reunification services

### **Lead Agency**

Section 409.1671, F.S., also creates the "eligible lead community-based provider" or lead agency. The lead agency is the critical piece of privatization because it is the entity the department contracts with for the provision of foster care and related services in a community. A lead agency is authorized to provide directly, or manage and operate foster care and related services through a network of providers. The lead agency must demonstrate the following capabilities:

1. The ability to coordinate, integrate and manage foster care and related services in the designated community in cooperation with child protective investigations.
2. The ability to ensure continuity of care from entry to exit for all children referred from the protective investigation and court systems.

3. The ability to provide directly, or contract for through a local network of providers, all necessary foster care and related services.
4. The willingness to accept accountability for meeting the outcomes and performance standards related to foster care and related services established by the Legislature and the Federal Government.
5. The capability and the willingness to serve all children referred to it from the protective investigation and court systems, regardless of the level of funding allocated to the community by the state, provided all related funding is transferred.
6. The willingness to ensure that each individual who provides foster care and related services completes the training required of child protective service workers by the Department of Children and Families.

**Two lead agencies are currently operating in four counties:**

- YMCA Children, Youth, and Family Services, Inc, which serves Sarasota and Manatee counties, and
- Family Continuity Programs, which serves Pasco and Pinellas counties.

The department is in the process of implementing community-based care initiative throughout the state based on the following timetable:

FY 2000/2001:

- Districts 1, 9, 12
- Duval
- Hillsborough & DeSoto

Projected for FY 2001/2002:

- Districts 8, 10, 11, 13, 14, 15
- Rest of District 4

Projected for before January 1, 2003:

- Districts 2, 3, 7

**Obstacles to Community-Based Care**

The Justification Review of the Child Protection Program in the Department of Children and Family Services, February 2001, by the legislative Office of Program Policy Analysis and Government Accountability (OPPAGA) finds the department must address several obstacles before achieving statewide implementation of privatization of foster care and related services.

Obstacles identified by OPPAGA include:

- Financial risks that may prevent some providers from becoming lead agencies.
- Most providers do not currently provide a full continuum of services that include fiscal, administrative and case management and will have to expand services before becoming a lead agency.
- Some communities are satisfied with the department providing services and are reluctant to privatize child protection services.
- Unanticipated problems with lead agency selection. The negotiation process is lengthy and subject to protest by providers not selected.

The department reports receiving concerns from potential lead agency providers regarding the requirements contained in s. 409.1671(1)(b)5., F.S., for the lead agency to demonstrate the

“capability and the willingness” to serve all children referred from the protective investigation and court systems regardless of the level of funding allocated by the state.

**Protection of Public Officials and Employees from Assault or Battery:**

Current section 784.081, F.S., provides for upgrading offenses against elected officials or specified employees, including those of the department, to a more serious charge when the person committing the offense knows the identity, position or employment of the victim. For example, assault is reclassified from a misdemeanor of the second degree to a misdemeanor of the first degree, and battery is reclassified from a misdemeanor of the first degree to a felony of the third degree.

**C. EFFECT OF PROPOSED CHANGES:**

**This bill has two broad purposes:**

- It addresses some of the problems DCF and private providers have encountered in the implementation of community-based care; and
- It establishes two strategies to begin to address some of the problems in our foster care system.

**For the community-based care initiative, the bill:**

- Broadens a lead agency’s authority to provide core services;
- Expands the definition of “foster care and related services”;
- Specifies that one of the requirements for a lead agency is that it maintain eligibility to receive federal child welfare funds; and
- Provides some flexibility to phase in privatization of services when the department is unable to find a capable and willing lead agency.

**For foster care and residential group care, the bill:**

- Directs the department to assess each child who is at least 12 years old and is being moved from foster home to foster home, for placement in residential group care, if appropriate;
- Expands the capacity in residential group care targeted for children with serious behavior problems and children without an option to be reunified with their families;
- Establishes 3 model residential programs, one in Dade, one in Hillsborough and one in Manatee counties, to provide the full range of out-of-home services to children in the foster care system. These model programs:
  - Are to be provided through the lead agency or another private agency;
  - Must meet a series of high quality standards that address problems experienced in the department’s foster care system, including lack of permanency, children moved from home to home, runaways and high staff turnover.

The bill also requires a department status report on the child protection system

**D. SECTION-BY-SECTION ANALYSIS:**

**Section 1. Amends s. 20.19, F.S.,**

It amends subsection (7) to allow community-based care, lead agencies to provide core services, such as case management.

**Section 2. Amends s. 39.521, F.S.**

It amends subsection (5) to require assessment and placement in residential group care, if appropriate, of children age 12 or older who have a history of multiple foster care placements, unless the court determines that placement is not in the child's best interest. Applies to children who have been in foster care at least 6 months who are moved in care more than once.

Requires the assessment to incorporate information from other assessments, guardians ad litem, teachers and others.

Requires notification of the court if the child is placed in residential group care.

Requires annual report to the Legislature on the status of children in residential group care.

**Section 3. Amends s. 409.1671, F.S.**

It amends subsection (1) to provide for flexibility in implementation of community-based care if a lead agency is not found. The department in collaboration with the local community alliance may competitively procure either specific components of foster care and related services or comprehensive services for defined eligible populations. Continued privatization and local control over the management and administration of services must be ensured.

Expands definition of "related services" to include, but not be limited to, services specified in statute to be provided.

Requires community-based providers competing for foster care privatization lead agency designation to be able to maintain eligibility for federal child welfare funds (Title IV-E and Title IV-A).

**Section 4. Creates s. 409.1676, F.S.**

Provides legislative intent to provide comprehensive services to children who have extraordinary needs.

Provides for expanded residential care capacity with specific appropriation in, at a minimum, Districts 4, 11 and 12 and the "Suncoast," prototype region defined in s. 20.19, F.S. The prototype region includes Hillsborough, Manatee, Pinellas, Pasco, Sarasota and Desoto counties (formerly Districts 5 and 6 and part of District 8).

The lead agency or contracted residential care provider is responsible for all services including comprehensive assessment, residential care, transportation, behavioral health, recreational activities, clothing, supplies and miscellaneous expenses and for arranging or providing educational services, and assuring necessary and appropriate health and dental care. They may also be responsible for casework if that responsibility is transferred to them by the department.

Defines residential group care, serious emotional problems and emotional disturbance.

The residential care providers may bill for Medicaid.

The lead agency or provider has legal authority for children in its care.

Specifies additional provisions for options in contracting for services.

**Section 5. Creates s. 409.1677, F.S.**



Requires model programs in Dade, Hillsborough and Manatee counties to provide an array of out-of-home care and provide or arrange for a full array of related services to a specified portion of children. Children to be targeted include children who are unlikely to be reunited with their families or placed in adoptive homes, sibling groups, children with serious behavioral problems and children who are victims of sexual abuse.

Out-of-home care is to include: group homes for initial assessment and stabilization, professional and traditional foster homes, residential group care in homelike settings, that have no more than 12 children and are staffed by trained full-time house parents, and independent living apartments.

Related services provided or arranged for are to include legal and aftercare in addition to those specified in new s. 409.1676, F.S.

Other requirements of the model programs include:

- Provision of the full range of necessary administrative services.
- Eligibility criteria specified in the contract that include a “no-reject-no-eject” commitment unless otherwise determined by the court.
- An ability with trained multidisciplinary staff to facilitate the achievement of permanency goals of the children in care.
- Utilization of a volunteer mentor program using the skills of retired persons to help meet the needs of the children in care and their caregivers.
- Willingness and ability to assume financial risk for the children in care.
- Willingness and ability to serve as a research and teaching laboratory for departmental and community-based care programs to improve the quality of foster care.

The model programs are to be created through contracts with a lead agency under s. 409.1671, F.S., or if a lead agency does not exist, with a not-for-profit corporation experienced in providing a range of services to children in foster care and capable of providing residential group care and home-based care.

This section specifies standards of what is to be included in the model programs to address problems in the existing foster care system, including permanency, stability and staff turnover.

This section defines residential group care, serious emotional problems and emotional disturbance.

### **Section 6. Creates s. 409.1679, F.S.**

Provides additional requirements, effective date and evaluation of both the model programs and comprehensive residential services.

The section specifies the following requirements for both the comprehensive residential services and model programs. That the programs:

- Be operational within 6 months after the effective date of this legislation.
- Provide the Legislature with monthly written status reports on the progress of implementation.
- Be included in the annual evaluation currently required under s. 409.1671, F.S.
- Meet the following expectations to be specified in contracts with the department or lead agency:
  - Move no more than 10 percent of the children served from one living environment to another.
  - Each child receives a full academic year of appropriate educational instruction.

- Keep siblings together in the same living environment at all times unless specifically contraindicated.
- Maintain caregiver turnover and child runaway rates that are at least 50 percent below rates in the rest of the state.
- Child satisfaction with services and living environments, and caregiver satisfaction with the programs.

Requires an annual independent third party evaluation to determine the programs are meeting these standards of care and outcomes and are cost effective.

This section requires that the department reimburse the programs based on a prospective per-diem rate, which must be specified annually in the General Appropriations Act. Funding shall be made available from resources appropriated and identified in the General Appropriations Act.

**Section 7. Amends s. 409.175, F.S.,**

Amends subsection (5) to provide for extended licenses for more than one year, up to three years, for family foster care homes in good standing, that have not been the subject of any findings of child abuse or neglect maltreatment.

**Section 8. Amends s. 784.081, F.S.,**

Upgrades the seriousness of the offense if a person commits assault or battery against an employee of a lead community-based provider and its direct service providers.

**Section 9.** Requires a department status report to the Governor and Legislature on the child protection system by February 1, 2002.

**Section 10.** Provides an effective date for the bill of July 1, 2001.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

The fiscal impact of increased assessment and placement of children in residential group care is not determined. According to the department, the average daily cost for a child in foster care is \$22.24 and the average daily cost for a child in residential care is \$91.89. An estimated 3675 children age 12 to 18 are in care. An estimated 43 percent of children in care have three or more placements in foster care and might be placed in residential care based on the provisions of this bill. Based on initial assumptions of the department an estimated \$16,090,004 might be needed to place children in residential group care. The number actually served would be dependent on appropriation.

Based on information developed by the department and EOG staff, an additional \$10 million is required to fund the model programs provided for in the bill. This is dependent on specific appropriation.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

Expansion of comprehensive residential services and model programs is dependent on specific appropriation.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce revenue-raising authority.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Child and Family Security adopted HB 1145 as a committee substitute incorporating a "strike everything" amendment. Provisions of the committee substitute are analyzed in the Section-by-Section Analysis. The provisions of the CS are substantially the same as the original bill except for placement of some provisions in different sections of statute. The committee substitute increased the age for assessment and placement in residential group care from age 8 to 12. It adds

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provisions for the assessment, notification of the courts if a child is placed, and status reports to the Legislature on placements. It adds children with emotional disturbance to those to be provided comprehensive residential services. It requires a department report to the Governor and Legislature on the status of the child protection system by February 1, 2002.

VII. SIGNATURES:

COMMITTEE ON CHILD AND FAMILY SECURITY:

Prepared by:

Staff Director:

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Glenn Mitchell

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Bob Barrios