

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1214

SPONSOR: Committee on Children and Families and Senator Peaden

SUBJECT: Foster Care

DATE: March 8, 2001 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------------|
| 1. | Barnes | Whiddon | CF | Favorable/CS |
| 2. | _____ | _____ | AHS | _____ |
| 3. | _____ | _____ | AP | _____ |
| 4. | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ | _____ |

I. Summary:

Committee Substitute for Senate Bill 1214 includes the following major provisions:

- Broadens community-based lead agency authority to provide core services.
- Requires the Department of Children and Family Services (department) to place certain children 8 years of age or older in licensed residential child care following an assessment procedure.
- Allows the department to broaden the services that can be privatized in the child welfare area.
- Adds to the requirements for a lead agency the ability to maintain eligibility to receive all federal child welfare funds, including Title IV-E and IV-A funds, currently used by the department.
- Provides an alternative to competitively procuring a lead agency for foster care and related services when the department is not successful in recruiting an eligible lead community-based provider.
- Increases comprehensive residential services in Districts 4, 11, 12, the Suncoast Region, and a site that will serve multiple districts for children with extraordinary needs such as serious behavioral problems or children without the option of reunification with their family or adoption.
- Establishes a model comprehensive residential services program in Dade and Manatee counties for a range of services to children in foster care including residential group care and home-based services.
- Provides for implementation time frames, reports to the Legislature, and annual evaluation for the residential group care and model comprehensive residential services programs.

- Specifies that a family foster home license may be valid for longer than 1 year but no more than 3 years if certain requirements are met.
- Adds employees of lead community-based providers and its direct service contract providers to the list of specified officials or employees for purposes of reclassifying offenses when the person committing the offense knows or has reason to know the identify or position or employment of the victim.

This bill substantially amends sections 20.19, 39.521, 409.1671, 409.175, and 784.081, of the Florida Statutes, and creates sections 409.1676, 409.1677, and 409.1679, of the Florida Statutes.

II. Present Situation:

Community-Based Care

Section 20.19(7)(c)2., F.S., states that the lead agency in the prototype region is responsible for contracting for the provision of core services including intake and eligibility, assessment, service planning, and case management. The law specifies that when the lead agency is the only appropriate organization within the service district that is capable of providing these services, the department may grant approval for the lead agency to assume these functions. The department reports that this provision places them in a position of managing the local system of care and limits the ability of the community and the lead agency to make efficiency decisions. It also restricts local lead agency providers from being able to develop their own comprehensive system of care for child protection.

Section 409.1671, F.S., includes the statutory provisions for the privatization of foster care and related services which directs the department to accomplish privatization statewide by January 1, 2003. The statute defines “related services” to include family preservation, independent living, emergency shelter, residential group care, foster care, therapeutic foster care, intensive residential treatment, foster care supervision, case management, postplacement supervision, permanent foster care, and family reunification. It is also specified in statute that where privatization has occurred, child welfare legal services must be provided by either the State Attorney or the Office of the Attorney General.

Currently, two lead agencies have contracts with the department to provide community-based care in four counties. Family Continuity Program, Inc. provides foster care and related services in Pinellas and Pasco counties (District 5) and the YMCA Children and Families, Inc. provides these services in Sarasota and Manatee counties. The department reports that both of these programs have been successful in their efforts to work with the department to improve the quality of child protection services in their communities. Nine additional counties, Escambia, Santa Rosa, Okaloosa, Walton, Flagler, Volusia, Duval, Hillsborough, and Palm Beach counties, are in various stages in negotiations or competitive procurement for the transitional contract into community-based care. 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.

The *Justification Review of the Child Protection Program in the Department of Children and Family Services, February, 2001*, by the Office of Program Policy Analysis and Government Accountability, states that the department must address several potential obstacles before achieving statewide implementation of privatization of foster care and related services. Those problems include: 1) reluctance on the part of many providers to assume the increased financial risk that comes with lead agency status, 2) the limited number of providers with the capacity to provide a comprehensive array of services, and 3) the reluctance of some communities to privatize child protection services.

Foster Care/Residential Group Care

Overview

The Child Protection Program in the Department of Children and Family Services (the department) 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. A child may be placed in out-of-home care when there is the likelihood that the child will continue to be at risk of abuse or neglect if he or she remains in the home. Out-of-home care includes relative and non-relative care services and foster care services.

Foster care is the most intensive out-of-home service. An abused child may be legally removed from his or her home and ordered by the court to be placed in foster care. Primary types of foster care placements are family foster homes which are private foster care services; emergency shelter placements located in state operated homes and facilities; residential group homes; and subsidized independent living arrangements. Providers are reimbursed for their services according to the child's age and the level of care required. The statewide average monthly reimbursement rate per child for foster care in January, 2001, was \$672.34 and the statewide average monthly rate per child for residential group care was \$2,795.62. The provider rates are negotiated at the local community level to reflect the service needs of the children served.

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.

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 percent 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 licensed under s. 409.175, F.S. as child-caring agencies. Residential group care is a purchase of service program for foster care clients who are older and have specialized needs that are better met in this type of group living environment. Staffing of such facilities may be provided by live-in house parents or by staff who work in rotating shifts. 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 experts estimate that about 30 percent of the children in care have marked or severe emotional problems.

During FY 1999-2000, there were 2,400 children served in residential group care. This was a 2.56 percent 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

- Between FY 1995-96 and FY 1999-2000, Florida's foster care system experienced a 28.8 percent 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 such as the District 7 Child Safety Strike Force.
- 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, 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 budgets 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.
- 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.
- Residential group care is under-utilized 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.
- 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.

- 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.
- According to data maintained for the FFY 2000 Adoption and Safe Families Act, 34.5 percent of children in care had three or more placements that lasted 48 or more months. The national standard is 89 percent for children having two or fewer placements when in care less than 12 months; Florida achieved only 80.7 percent of this standard.
- From October 1, 1999, to September 30, 2000, 862 children discharged from care were 18 years of age or older. These youth had grown up in care. 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.
- Achieving and maintaining permanency is 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 percent left care during the following 12 months. The percentage is even lower when all children in care are considered.
- *The Justification Review of the Child Protection Program in the Department of Children and Family Services, February, 2001*, by the Office of Program Policy Analysis and Government Accountability, reports the following problems with Florida's foster care system:
 - The number of admissions to foster care increased by 13 percent between FY 1998-99 and FY 1999-00.
 - The department increased its foster home capacity by only 5 percent between FY 1997-98 and 1998-99 even after receiving 70 new FTEs from the 1999 Legislature solely for the purpose of recruiting new foster families.
 - The number of children needing care has outpaced the number of foster homes; some homes serve more children than they are licensed to serve. In August, 1999, 14.9 percent of the foster homes had more than five children.
 - The foster care program has not met its legislative standard in the past 4 fiscal years which states that 95 percent of the children would not be reabused or neglected for 1 year after the case is closed.
 - For the past 3 years, the program has not met the legislative goal of keeping 97 percent or more of the children served in foster care safe from further abuse while in care. In FY 99-00, 91.9 percent of the 14,980 children in foster care were not abused or neglected during service provision; which means that 1,214 foster care children (8.1 percent) were abused while in the state's care.
 - Turnover rate for family service counselors, positions assigned to protective investigations, protective supervision, and foster care, was 24.2 percent for FY 1999-2000 compared to a turnover rate of 8.3 percent for all state employees.

- The Ward vs. Feaver lawsuit in Broward county and the Foster Children vs. Jeb Bush, Kearney, et. 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.

III. Effect of Proposed Changes:

Section 1

CS/SB 1214 amends s. 20.19(7)(c)2, F.S., specifying that a lead agency in the prototype region may provide core services and removes the provision that the lead agency must obtain approval from the department to provide core services.

Section 2

The bill amends s. 39.521(5), F.S., by requiring the department to place certain children in licensed residential child care after following an assessment procedure. The requirement would apply to any child 8 years of age or older who has been in care at least 6 months who is then moved in care more than once. The assessment procedure is led by the child’s assigned case worker who incorporates current and historical information from psychological tests or other evaluations from the guardian ad litem, and any current therapist, teachers, and other professionals having knowledge of the child. If it is determined that the placement in licensed residential group care is not appropriate, the assigned case worker shall submit specific written justification to the court for review at the next scheduled hearing. The department is required to report to the Legislature by December 1 of each year the criteria used to determine placement in licensed residential group care, the number of children who were assessed for placement and, based upon the assessment, the number of children placed and the number of children not placed in licensed residential group care during the year. The department must also report data to the Legislature in this report that specifies the number of children referred to licensed residential group care for whom there was no available placement and the counties in which placements were unavailable so that the Legislature may consider this information in its development of the General Appropriations Act.

Section 3

Section 409.1671(1)(a), F.S., relating to foster care and related services is amended to allow the term “related services” to include other services which are not currently listed in that section. Services currently listed in that section include: family preservation, independent living, emergency shelter, residential group care, foster care, therapeutic foster care, intensive residential treatment, foster care supervision, case management, postplacement supervision, permanent foster care, and family reunification.

Section 409.1671(1)(b)7., F.S., is amended to add a provision that an agency competing for lead agency designation must have the ability to maintain eligibility to receive all federal child welfare funds (Title IV-E and Title IV-A funds) currently used by the department. The bill specifies that if the department is not successful in its efforts to competitively procure services through an eligible lead community-based provider, the department in collaboration with the local community alliance must develop a plan that: 1) ensures local control over the management and administration of service provision and 2) explains how the community will continue to implement privatization through competitively procuring either the specific components of foster care and related services or a comprehensive community-based care system from qualified licensed agencies. If a community alliance does not exist, the plan must be submitted to the President of the Senate and the Speaker of the House of Representatives for their comments.

In an effort to address many of the problems experienced in the department’s foster care system, sections 4 through 6 of the bill provide two strategies within the private sector: the expanded utilization of existing residential group care programs in a number of areas of the state and the creation of two model programs that will provide, in addition to residential group care, a full array of high quality residential care services that can serve as a prototype for the rest of the state.

Section 4

The bill creates s. 409.1676, F.S., that describes comprehensive residential services to children with extraordinary needs. The new section states that the Legislature intends for comprehensive residential services to be provided to children in the child protection system who have extraordinary needs such as serious behavioral problems or do not have the options of either reunification with their family or adoption. These residential services must be provided by a not-for-profit corporation or local government entity under contract with the department or by a lead agency pursuant to s. 409.1671, F.S. These contracts must specify that an identified number of children will have access to a full array of services for a fixed price.

“Residential care” is defined as a living environment for children who are 8 years of age and older who have been adjudicated dependent and are expected to be in foster care for at least 6 months with 24 hour awake staff or live-in group home parents or staff.

“Serious behavioral problems” is defined in the bill as behaviors of children who have been assessed by a licensed master’s-level human-services professional to need a minimum intensive services but do not meet the criteria contained in s. 394.492(6), F.S., of a child or adolescent who has a serious emotional disturbance or mental illness or in s. 394.492(7), F.S., of a child or adolescent who is experiencing an acute mental or emotional crisis. A child with an emotional disturbance as defined in

s. 394.492(5), F.S., may be served in residential group care unless a mental health professional determines that such a setting is not appropriate.

The bill specifies that, at a minimum, the department will contract for comprehensive residential services with a specific appropriation in Districts 4, 11, 12, the Suncoast Region of the department, and a site that will serve multiple districts. A lead agency currently providing residential care may provide this service directly with the approval of the community alliance. The bill allows the department or the lead agency to contract for more than one site in a county if that arrangement is determined to be the most effective way to achieve the goals of the program.

The entity under contract with the department is responsible for the following services: comprehensive assessment, residential care, transportation, behavioral health, recreational activities, clothing, supplies and miscellaneous expenses associated with these children, for the necessary arrangement for or provision of educational services, and for assuring necessary and appropriate health and dental care. When the lead agency specified in s. 409.1671, F.S., is responsible for this program the casework responsibilities must be transferred to them. In situations where the entity is not a lead agency specified in s. 409.1671, F.S., the transfer of casework responsibilities and court related work for this group of children is optional.

The bill specifies that as long as two or more funding sources do not pay for the same service, a provider may appropriately bill the Medicaid Program for services, contract with a local school district for educational services, or earn federal or local funds for services. For children in this residential program, the lead agency, not-for-profit corporation, or local government entity has the legal authority to enroll a child in school, sign for a driver's license, co-sign loans and insurance, sign for medical treatment, and authorize other similar activities.

Section 5

The bill creates s. 409.1677, F.S., establishing a model comprehensive residential services program in Dade and Manatee counties through contracts with a lead agency under s. 409.1671, F.S., or if a lead agency does not exist, with a private entity experienced in providing a range of services to children in foster care and capable of providing residential group care and home-based care. These programs must provide a full array of services for a fixed price to that portion of eligible children within each county as specified in the contract and based upon funds appropriated.

The bill specifies the following requirements for each model:

- Focusing on children with specialized needs, such as those children not likely to be reunited with their families or adoptive homes, sibling groups, children with serious behavioral problems, and children who are victims of sexual abuse.
- Provision of or arrangement for the following services: comprehensive assessment; residential care; transportation; behavioral health; recreational activities; clothing, supplies and miscellaneous expenses associated with these children; educational services; necessary and appropriate health and dental care; legal services; and aftercare services.
- Commitment and ability to find and use innovative approaches to address the problems in the traditional foster care system (high caregiver turnover, disrupted and multiple placements, runaway behavior, or abusive or nontherapeutic care).

- Provision of a full range of residential services designed to meet the individual needs of each child in care, including group homes for initial assessment and stabilization, professional and traditional foster homes, residential group care in a homelike setting with no more than 12 children and staffed with full-time appropriately trained house parents, and independent living apartments.
- Provision of the full range of necessary administrative services for operational purposes.
- 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 retired-volunteer mentor program using the skills of retired persons in helping 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 bill specifies that as long as two or more funding sources do not pay for the same service, a provider may appropriately bill the Medicaid Program for services, contract with a local school district for educational services, or earn federal or local funds for services. For children in this residential program, the lead agency, not-for-profit corporation, or local government entity has the legal authority to enroll a child in school, sign for a driver’s license, co-sign loans and insurance, sign for medical treatment, and authorize other similar activities.

Section 6

The bill creates s. 409.1679, F.S., specifying the following requirements for the programs created in ss. 409.1676 and 409.1677, F.S.:

- Starting implementation of the programs within 1 month and being operational within 6 months after the effective date of this legislation.
- Providing the Legislature with monthly written status reports on the progress of implementation.
- Inclusion in the annual evaluation currently required under s. 409.1671, F.S.
- Meeting the following expectations of contracts with the department or lead agency:
 - Moving no more than 10 percent of the children served from one living environment to another, unless the child is returned to family members or is moved, in accordance with the treatment plan, to a less restrictive setting.
 - Providing each child with a full academic year of appropriate educational instruction.
 - Keeping siblings together in the same living environment 100 percent of the time unless the provider determines and the court agrees that it is not in the child’s best interest.
 - Maintaining a caregiver turnover rate and an incidence of child runaway episodes at 50 percent below those rates experienced in other parts of Florida.
 - Providing, in addition to the comprehensive assessment, any or all of the following services indicated through the assessment 100 percent of the time: residential care, transportation, behavioral health, recreational activities, clothing, supplies and miscellaneous expenses associated with these children, necessary arrangement for or provision of educational services, and necessary and appropriate health and dental care.
 - Satisfying the children served by this program with the services and living environment.

The bill requires that the department reimburse the programs established under s. 409.1676, F.S., and s. 409.1677, F.S., at a fair and reasonable level and based on a prospective per-diem rate, which must be specified annually in the General Appropriations Act.

Section 7

The bill amends s. 409.175, F.S., by specifying that a family foster home license may be valid for longer than 1 year but no longer than 3 years if the home has maintained a license with the department for at least the 3 previous consecutive years, maintains good standing with the department, and has not been the subject of reports of child abuse or neglect with any findings of maltreatment.

Section 8

Section 784.081, F.S., is amended to add employees of lead community-based providers and their direct service contract providers to the list of specified officials or employees for purposes of reclassifying offenses in cases when the person committing the offense knows or has reason to know the identity or position or employment of the victim.

Section 9

The bill provides an effective date of July 1, 2001.

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:

The impact of this bill could be significant on the private providers of residential group care because it expands the capacity of licensed residential group care. The extent to which that capacity is increased will be based upon the appropriation for this purpose specified in the General Appropriations Act.

C. Government Sector Impact:

This bill will increase the number of children who are placed in a residential group care setting. The department reports that the residential group care rate per year per child is \$2,795.62. The extent to which the capacity of licensed residential group care is increased will be based upon the appropriation for this purpose specified in the General Appropriations Act.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
