

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | 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. EFFECT OF PROPOSED CHANGES:

Many children in foster care struggle academically and socially. Compared with other students, children in foster care have poorer academic performance and classroom achievement; have poorer attendance records and change schools more frequently.¹ Frequent school changes force these children to repeatedly adjust to different educational experiences, expectations and environments, at a time when their home lives are already disrupted.² According to a study conducted by the School Board of Broward County, foster students were more likely to be retained within grade and scored lower on standardized achievement tests when compared to non-foster care students.³ This is an issue being discussed nationwide, and those involved in the debate agree that communication and cooperation among the social service agencies, the schools and the caregivers will improve outcomes for these children.⁴

Currently, there is no statewide interagency agreement between the Department of Children and Families (DCF) and the Department of Education (DOE) regarding the education and related care of children under the supervision or in the custody of DCF.

Some interagency agreements exist at the local district and/or county level. In Broward County, DCF has interagency agreements with the following agencies: the Department of Juvenile Justice, Circuit 17, the School Board of Broward County, and the Chiefs of Police Association. These agreements address some but not all of the elements required by this legislation.

In addition, DCF has committed as part of its Performance Improvement Plan (PIP), entered into with the Administration for Children and Families,⁵ to develop a model working agreement with DOE to improve communication to better identify and address foster children’s educational needs. This will address several of the requirements imposed by the bill.

The bill requires the statewide interagency agreement include specific provisions. Federal and state laws already exist regarding many of these mandated provisions. The following are the major laws: educational requirements in case planning, participants in the case planning process, rights of the custodian to provide the child with an education, confidentiality of information gained from the child

¹ *From Barriers to Successful Collaboration: Public Schools and Child Welfare Working Together*, Sandra J. Altshuler, *Social Work*, p. 52, January 2003 [internal citations omitted].

² *School Support for Foster Families*, Wendy Schwartz, ERIC/CUE Digest, ED434189, September, 2000.

³ *Research Brief*, January 2003.

⁴ See, e.g., *Lost in the Shuffle Revisited: The Education Law Center’s Report on the Education of Children in Foster Care in Pennsylvania*,

⁵ Outcome Well-Being 2 Children Receive Appropriate Service to Meet their Educational Needs, Item 21 Education Needs of the Child, Action Step 1, Revised PIP, 3/16/03

welfare agency, children with disabilities and educational safeguards, and independent living transition services for children and young adults formerly in foster care.

This bill requires DCF to develop and implement a statewide interagency agreement with the Department of Education. It also requires DCF to develop and implement interagency agreements at the local level with school boards or local educational entities.

The statewide interagency agreement is to address all children under the supervision of DCF and receiving services in their own home or in out-of-home care, including licensed and non-licensed settings. The major provisions of the statewide agreements are:

- facilitate the delivery of any service or program to children,
- avoid duplication of services or programs to children,
- combine resources to maximize the availability or delivery of services

The local agreements are to address the same population. This bill mandates specific provisions of the interagency agreements with local school districts. The major provisions of the local agreements are:

- continued enrollment in same school setting,
- notice regarding the child's residence and caseworker contact information,
- authority to share information about the child,
- transportation for children in state custody,
- appointment of surrogate parent for each dependent child,
- cooperation in accessing services for children with disabilities,
- coordination of services for children with disabilities,
- provision of individualized interventions for eligible children,
- participation of school staff in case planning and case review,
- training for caseworkers and foster parents on education related issues,
- training for caseworkers and school contractors on education related issues.

DCF will immediately be impacted in two primary ways: available staff capacity to develop and implement the provisions of the agreements at the local level, and expanded training for caseworkers and foster parents. Currently, the pre-service training for caseworkers and foster parents does not meet the requirements of the bill regarding education related service provision.

The bill is unclear as to which entity, DCF or the school districts, is required to coordinate and/or provide funding for transportation when a child's placement must change. There are an estimated 32,000 children currently placed in DCF out-of-home care. Of these, 61% of these children are of school age, a total of 19,520. According to the 2001 Pre-ASFA audit, 52% of children monitored statewide were found to have had a school change as a result of out-of-home placement, suggesting 10,150 children would need transportation.

C. SECTION DIRECTORY:

Section 1: Creates an Act requiring DCF or its successor to enter into interagency agreements with public or private entities for delivery of services to children in care or custody or under the supervision of the agency; requiring an agreement between DCF and DOE; requiring an agreement between DCF and district school boards; specifying provisions of each agreement.

Section 2: Provides for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

DOE estimates a cost of \$350 per year per child in transportation cost.. 10,150 children multiplied by \$350 per year would cost \$3,552,500 per year for transportation services for DCF children placed out of home. The bill is not clear as to whether this cost would be borne by the local school boards, by DCF, or jointly

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

DOE estimates a cost of \$350 per year per child in transportation cost.. 10,150 children multiplied by \$350 per year would cost \$3,552,500 per year for transportation services for DCF children placed out of home. The bill is not clear as to whether this cost would be borne by the local school boards, by DCF, or jointly

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill may require a local school district to expend funds or take action requiring the expenditure of funds. Pursuant to subsection (a) of section 18 of Article VII, Florida Constitution, no county or municipality shall be bound by any general law requiring such county or municipality to spend funds or to take action requiring the expenditure of such funds unless:

- The Legislature has determined that such law fulfills an important state interest, and unless:
- Funds have been appropriated sufficient to fund such expenditure;
- The Legislature has authorized a county or municipality to enact a funding source not available on February 1, 1989 that can be used to generate sufficient funds for such expenditure by a simple majority vote of the governing body;
- The Legislature approves the law by a 2/3 vote of each house;

- The expenditure is required to comply with a law that applies to all persons similarly situated, including the state and local government; or
- The law is required to comply with a federal requirement which contemplates actions by counties or municipalities for compliance.

The bill does not contain the required finding of an important state interest

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The requirement to “fulfill the constitutional mandate to provide an education to Florida’s children, including those children in temporary or permanent custody of the state,” is broad and open-ended. It may impose a liability on DCF where none now exists: a shared responsibility to provide not only a given level education to dependent children, but to ensure their educational success. For example, DCF or the school districts could be liable for failing to provide that a child must be educated in a class that complies with the class size amendment.

The bill does not limit itself to Florida constitutional requirements concerning education. It could require both state and federal judicial interpretations of constitutional requirements relating education. Drafting an agreement that does so will be nearly impossible because the drafter will need to understand all of the textual and case law requirements concerning education and be able to distill them into discrete action steps.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On April 1, 2003, the Subcommittee on Children’s Services adopted a strike all amendment to HB 1121.

The amendment requires DCF to enter into an agreement with DOE regarding the education and related care of children known to DCF in order to provide those children with educational access.

The amendment requires DCF to enter into interagency agreements with district school boards and other educational entities, and specifies the contents of those agreements:

- DCF’s responsibility for enrolling the child in school or continuing enrollment in the current school to avoid disruption
- DCF’s responsibility to request that the school district identify all educational and other district-provided services for the child.
- A protocol for information sharing between DCF and the school district
- Whether transportation to avoid a change in schools is available, and whether funding for that transportation is available.
- Cooperation in assessing services and supports for a disabled child to receive an appropriate education
- Coordination of services for a disabled child
- Provision of individualized student intervention or individual education plans

DCF must provide the school district notice of and access to its case planning and review process.

DCF must coordinate with DOE and the local school districts regarding training required by this act. DCF must include in its training the following components:

- Training for surrogate parents on the effects of abuse on a child's ability to learn
- Training for parents and preadoptive parents on accessing educational services
- Training for caseworkers and foster parents on a child's right to an education
- Training of DCF contractors on the education of children

The amendment provides that this act establishes goals and not rights; that nothing in the act requires delivery of a particular service or level of service above existing appropriations; and that no cause of action accrues from the adoption of these goals or failure to provide funding for their attainment.

During member discussion, staff was directed to prepare an amendment to be presented to the Committee on the Future of Florida's Families inserting the term "or community based care lead agency" after "Department of Children and Family Services" as appropriate in the amendment.