

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1121 w/CS Relating to Children in the Custody of the State/DCFS
SPONSOR(S): Mealor; Detert
TIED BILLS: None **IDEN./SIM. BILLS:** SB 2744

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Children's Services (Sub.)	6 Y, 0 N	Walsh	Liem
2) Future of Florida's Families	16 Y, 0 N w/CS	Walsh	Liem
3) State Administration		Bond	Everhart
4) Human Services Appropriations (Sub.)			
5) Appropriations			

SUMMARY ANALYSIS

This bill requires the Department of Children and Families (DCF) to enter into agreements with the Department of Education (DOE), and with district school boards, regarding the education and related care of children who are in the custody of, or being supervised by, DCF. The agreements are for the purpose of ensuring those children with educational access, and maximizing the provision of needed services without duplication.

This bill further specifies that it is creating goals, not rights enforceable in court; and that accordingly the provisions of this bill must be accomplished within existing appropriations.

This bill does not appear to have a fiscal impact on state or local governments.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1121c.sa.doc
DATE: April 11, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input 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:

Although Section 2 of this bill states that it merely creates goals for the agencies involved, the agencies will (and should) comply with these goals where possible within existing appropriations. As such, this bill adds additional duties that will likely be performed by the Department of Children and Families, the Department of Education, and district school boards.

It is arguable that any bill that increases the responsibilities of the state as to dependent children may have the effect of further decreasing the personal responsibility expected of parents as to their children, and may also have the effect of government interference in family relationships. Thus, it can be argued that A.4. and A.5. should be “no” also.

B. EFFECT OF PROPOSED CHANGES:

Background

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 often lead to repeated adjustment by these children to different educational experiences, expectations and environments, at a time when their home lives are disrupted.² According to a study conducted by the School Board of Broward County, students who were placed in foster care were more likely to be retained within grade, and scored lower on standardized achievement tests, as compared to children not living in foster care.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, may 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.

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*,

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.

Effect of Bill

This bill requires DCF or to enter into an agreement with DOE regarding the education and related care of certain children⁶ in order to provide those children with educational access. This bill also requires DCF, or the community based care lead agency in the district (lead agency), as appropriate, to enter into interagency agreements with district school boards and other educational entities, regarding the education of certain children. Those agreements are to include:

- DCF or the lead agency's responsibility for enrolling the child in school or continuing enrollment in the current school to avoid disruption.
- DCF or the lead agency'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 or the lead agency 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 or the lead agency must provide the school district notice of and access to its case planning and review process.

DCF must also coordinate with DOE and the local school districts regarding certain training programs operated by DCF. Specific requirements of those training programs are:

- 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.

Section 2 of this bill specifically provides that this bill merely establishes goals, not legal rights. Accordingly, that nothing in this bill requires delivery of a particular service or level of service above existing appropriations. No cause of action will accrue from the adoption of these goals or the failure to provide funding for their attainment.

C. SECTION DIRECTORY:

Section 1 creates an unnumbered section of law to requires DCF to enter into an agreement with DOE regarding certain children.

Section 2 creates an unnumbered section of law which provides that this bill creates goals, not legal rights.

Section 3 provides for an effective date of July 1, 2003.

⁵Outcome 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

⁶ This bill uses inconsistent terminology to describe the children to which the bill applies. See section entitled "Drafting Issues or Other Comments".

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None. See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Section 2 of HB 1121 w/CS provides that the additional requirements imposed on the Department of Children and Families by this bill are goals, not legal requirements. Section 2 further provides that these goals must be accomplished within existing appropriations. Without this section, this bill might represent a significant fiscal impact on state government.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill is inconsistent in the terms used to describe the children to which it applies:

- Line 12, part of the short title of the bill, refers to “children in [the] custody of the state”.
- Lines 30-31 refer to “children in the care or custody or under the supervision of [DCF]”.
- Lines 36-39 refer to “children known to [DCF] who are in shelter care, foster care, or out-of-home care, placed with a relative caregiver, or under protective supervision of [DCF]”.
- Lines 40-41 refer to “children known to the Department of Children and Family Services”.

- Lines 45-46 refer to “children in the temporary or permanent custody of [DCF]”.
- Line 53 refers to “the child”
- Line 59 refers to “a child in [DCF’s] custody”.
- Lines 73-74 refer to “a child in the care of the Department of Children and Family Services”.
- Line 77 refers to “a child”.
- Lines 81-82 refer to “a child in state custody”.
- Line 130 refers to “a child”.

On line 28, it is unclear why the phrase “agreements, contracts, or other arrangements” is used, as the term “agreements” is sufficient.

Paragraphs (2)(e) and (2)(f) appear redundant, although (2)(f) is significantly more specific.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

The Committee on the Future of Florida’s Families amended HB 1121 to:

- Add that community based care lead agencies are responsible for the same duties as the Department of Children and Family Services, where appropriate.
- Remove the unnecessary reference to the portion of art. IX, s. 1, Fla.Const., which requires the state and its subdivisions to provide education to the children of the state.
- Remove the requirement that district school boards provide transportation in order that a dependent child stay enrolled in the same school. By the amendment, the bill merely suggests that transportation be provided. There was an estimated \$3.5 million recurring fiscal impact to this provision.
- Remove the requirement that DCF provide training to parents, caregivers, potential adoptive parents, and surrogate parents appointed under the Individuals with Disabilities Education Act.
- Remove the requirement that a district school board participate in case planning of dependency cases. By the amendment, a district school board may participate in case planning.
- Expand the description of the requirement placed on DCF to include an educational component in its training programs for natural parents, surrogate parents, foster parents, adoptive parents, and caseworkers.
- Add a statement that the provisions of this bill establish goals, not rights; and that accordingly the provisions of this bill are not enforceable in a private action against the state.

The bill was then reported favorably with a committee substitute.