

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1923 Department of Children and Family Services
SPONSOR(S): Committee on the Future of Florida's Families
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Future of Florida's Families</u>	<u>17 Y, 0 N</u>	<u>Preston</u>	<u>Liem</u>
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The bill makes a number of changes to laws related to dependent children and the Department of Children and Family Services. Specifically, the bill does the following:

- Permits and provides the parameters for releasing confidential information from the Department of Children and Families child abuse, neglect, and abandonment records for children who have been identified as missing, if the release of the information will facilitate locating the children.
- Removes the requirement that Tallahassee Community College be the only contract provider for child welfare training; provides for the development of core competencies; provides for trainer certification; and requires a competitive bidding process related to the components of training.
- Provides for the independent living services integration workgroup to continue as the independent living services workgroup; provides for duties of the workgroup; and requires reports to the House and Senate substantive committees.
- Provides for the continuation of the implementation of community-based care; provides for a certification process before services can be transitioned from the department to a lead agency; and provides for an bi-annual report to the Legislature.
- Allows the Department of Children and Family Services to petition the court to determine custody and placement for unaccompanied refugee minors.
- Requires the Office of Program Policy Analysis and Government Accountability to evaluate different models for the provision of child welfare legal services and provide a report.

The bill is anticipated to have no 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: h1923.fff.doc
DATE: April 22, 2003

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 checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input 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 checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

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

B. EFFECT OF PROPOSED CHANGES:

Access to Child Abuse, Neglect, and Abandonment Records

Section 39.202, Florida Statutes, provides that all records held by the department relative to reports of child abuse, neglect, or abandonment are confidential and exempt from public disclosure. With the exception of the name of the reporter, these records are permitted to be disclosed only to the following entities identified in § 39.202(2), Florida Statutes, within the limitations and conditions specified in statute:

- employees, authorized agents, and contract providers of the Department of Children and Families (DCF), the Department of Health, and county agencies responsible for child protective investigations, child protective services, Healthy Start services, or licensing of adoption homes, foster homes, and certain child care settings;
- employees or agents of the Department of Juvenile Justice responsible for Children in Need of Services/Families in Need of Services or delinquency services;
- the parent or legal custodian of the child alleged to have been abused, the child, and their attorneys;
- the alleged perpetrator of the abuse;
- the court;
- a grand jury;
- an official of DCF for the administration of certain related programs, administrative actions against an employee alleged to have committed abuse, or employment in the department;
- for research or audit purposes;
- the Department of Administrative Hearings;
- representatives of the Florida Advocacy Council;
- representatives of the Auditor General or Office of Program Policy Analysis and Government Accountability;
- authorized agents of an agency or another state that has comparable jurisdiction to DCF;
- the Public Employees Relation Commission as needed for appeals;
- the Department of Revenue for child support enforcement activities; and
- any person when the death of a child has been the result of abuse, neglect, or abandonment.

Currently, representatives of the school system are not provided access to information pertaining to children in their schools who have been abused, neglected, or abandoned and are in the dependency system. Ensuring that children who are in the dependency system receive the appropriate educational

services is important to the stability and progress of these children's education. In addition, a number of children and families whom the department is serving pursuant to ch. 39, Florida Statutes, are victims of domestic violence. These families are also often receiving services from the domestic violence centers. Collaboration between the department and domestic violence center staff can facilitate more effective service provision for these families.

The bill amends § 39.202, Florida Statutes, to provide for information sharing between the department and certified domestic violence centers under certain circumstances and to provide that records of the department related to child abuse, neglect, or abandonment may be released to school related employees.

Section. 39.202(2)(d), Florida Statutes, permits the parents or legal guardians, the child, and their attorneys access to the records of the department. However, the child may have an attorney to represent the child's best interest in a civil proceeding, such as a child custody proceeding, or in a criminal proceeding, such as when criminal charges are filed against the parents for child abuse. It has been reported that the current provision is not clear that the attorney of the child who has access to these records includes not only an attorney representing the child in the dependency proceeding, but an attorney who is representing the child in a civil or criminal proceeding, as well. The bill clarifies that records may be accessed by an attorney representing a child in either a criminal or civil procedure.

When the disappearance of Rilya Wilson became public knowledge, one issue that received significant attention was the identification and location of children who are missing from the dependency system. During the fall of 2002, Operation Safekids was established to search for and locate the 393 children who were under the supervision of DCF and could not be accounted for. This was a collaborative effort between the department, the Florida Department of Law Enforcement and Florida's local law enforcement agencies. One barrier identified as an impediment to rapid efforts to utilize law enforcement and other strategies found to be effective in locating missing children was the confidentiality provision under ch. 39, Florida Statutes. While law enforcement is permitted to receive the records of children in the dependency system, this section does not permit the release of the information to the public to secure the public's assistance in locating missing children. For the purposes of this effort to locate the children identified missing at that time, the Department of Children and Families sought and was granted an Order Authorizing limited Disclosure of Confidential Information, in accordance with s. 119.07(7)(a), Florida Statutes. On February 17, 2003, the court issued another order permitting the continued release of information on children whose whereabouts became and will become unknown subsequent to the September order. However, the problem of missing children in the dependency system is an chronic issue that will need continued attention as children are identified as missing.

The bill amends § 39.202, Florida Statutes, to specifically permit the release of information in the records of the department if the child is determined to be missing. Specifically, the department is authorized to disclose certain information from the child's records pertaining to the abuse, neglect, or abandonment if the child under investigation or supervision of the department or one of its contracted service providers (i.e., sheriff's offices conducting child protective investigations or community-based lead agencies providing foster care and related services) is determined to be missing and the release of the information will facilitate the locating or promoting the safety of the child. The information permitted to be released by the department is the name and date of birth of the child, a physical description of the child, and a photo of the child. Additional information may be released by the department if the law enforcement agency with primary responsibility for investigating the missing child agrees that such disclosure will facilitate efforts to locate or protect the safety of the child. The law enforcement agency with primary investigative responsibility is authorized to release any information provided by the department under the same conditions. Civil and criminal immunity is provided to the department, law enforcement and recipients of the information. The release of the name of reporter is specifically prohibited. This provision sets forth a clear authorization for release of the specific information regarding the child that will assist in an investigation by law enforcement and efforts by both law enforcement and the department to locate the child.

Child Welfare Training

The Florida Department of Children & Families contracts with Tallahassee Community College to operate the Professional Development Centers (PDC). The PDC is the statewide organization which develops and delivers experiential, competency-based training and testing for child protection professionals in Florida. There are four training centers with twenty classroom training sites and a central office. Training is provided in the classroom, in the field and through various technologies. The PDC central office is responsible for curriculum development and management of the system. PDC training is statewide and is integrated throughout the work environment.

The PDC provides training for the following positions: Family Services Counselor, Family Services Specialist, Family Services Counselor Supervisor, Child Welfare Legal Services Attorney, and Hotline Staff. The PDC also provides for Supervisor Effectiveness Training, Mentor Training for new employees, Statewide Automated Child Welfare Information System (SACWIS) Training, and Foster Parent Training which is usually referred to as the Model Approach to Partnerships in Parenting (MAPP).

The bill removes Tallahassee Community College as the sole contract provider and provides for the development of core competencies for a pre-service curriculum. The bill also provides for the development of advanced training when necessary, provides for trainer certification, and requires a competitive bidding process for all training academy contracts.

Independent Living Transition Services

The Road to Independence Act was enacted by the Florida Legislature during the 2002 legislative session (Chapter 2002-19, Laws of Florida), to provide services and support to enable older children in foster care and young adults who leave foster care at the age of 18 to make the transition to self-sufficiency as adults. Independent living arrangements established for a child must be part of an overall plan leading to the total independence of the child from the department's supervision. The plan must include at a minimum a description of the skills of the child and a plan for learning additional identified skills; the behavior that the child has exhibited which indicates an ability to be responsible and a plan for developing additional responsibilities, as appropriate; a plan for future educational, vocational, and training skills; present financial and budgeting capabilities and a plan for improving resources and ability; a description of the proposed residence; documentation that the child understands the specific consequences of his or her conduct in the independent living program; documentation of proposed services to be provided by the department and other agencies, including the type of service and the nature and frequency of contact; and a plan for maintaining or developing relationships with the family, other adults, friends, and the community, as appropriate (§ 409.1451, Florida Statutes). Among other things, these older children and young adults are provided with:

- Preindependent-living services for children 13 to 15 years of age, including life skills training, educational field trips, and conferences.
 - Life skills services for children 15 to 18 years of age including, independent living skills training, educational support, employment training, and counseling.
 - Subsidized independent living services to allow a child 16 to 18 years of age to live independently of the daily care and supervision of an adult in a setting that is not required to be licensed under § 409.175, Florida Statutes, under certain specified circumstances.
 - Based on the availability of funds, the department shall also provide or arrange services to young adults formerly in foster care who are ages 18 to 23 and who meet the prescribed conditions and are determined eligible by the department.
- The categories of services available to assist a young adult formerly in foster

care to achieve independence are include: mentoring and tutoring, mental health services and substance abuse counseling, life skills classes, including credit management and preventive health activities, parenting classes, and job skills training.

- The Road-to-Independence Scholarship Program is intended to help eligible students who are former foster children in this state to receive the educational and vocational training needed to achieve independence. The amount of the award shall equal the earnings that the student would have been eligible to earn working a 40-hour-a-week federal minimum wage job, after considering other grants and scholarships that are in excess of the educational institutions' fees and costs, and contingent upon available funds. Students eligible for the Road-to-Independence Scholarship Program may also be eligible for educational fee waivers for workforce development postsecondary programs, community colleges, and universities, pursuant to § 1009.25(2)(c), Florida Statutes.

Community-Based Care

In 1996, the Florida Legislature encouraged the Department of Children and Family Services to privatize the provision of “foster care and related services” by contracting with competent community-based agencies or “lead agencies”. In was the intent of the Legislature that by privatizing these services, the support and commitment of communities to the reunification of families and care of children and their families would be strengthened, and efficiencies as well as increased accountability would be gained. The services to be privatized included family preservation, independent living, emergency shelter, residential group care, foster care, therapeutic foster care, intensive residential treatment, postadjudication legal services, foster care supervision, postadjudication case management, postplacement supervision, permanent foster care, family reunification, the filing of a petition for the termination of parental rights, and adoption.

In 1998, the Florida Legislature mandated the Department of Children and Family Services to privatize the provision of foster care and related services statewide. The department was required to submit a plan to accomplish privatization statewide, through a competitive process, phased in over a 3-year period beginning January 1, 2000. For any district or portion of a district in which it was anticipated that privatization could not be accomplished within the 3-year timeframe, the department was required to include in its plan the reasons the timeframe cannot be met and the efforts that should be made to remediate the obstacles, which could include alternatives to total privatization, such as public-private partnerships. The 1998 legislation also required the department to submit an annual report regarding quality performance, outcome measure attainment, and cost efficiency to the President of the Senate, the Speaker of the House of Representatives, the minority leader of each house of the Legislature, and the Governor no later than January 31 of each year for each project in operation during the preceding fiscal year.

During the 2002 legislative session the date for the full transfer of all foster care and related services statewide was extended until December 31, 2004, due to the fact that fewer than five lead agencies had transitioned to full service contracts at the end of the three year period initially established for statewide privatization to be complete.

The Florida Mental Health Institute’s annual evaluation of the community-based care initiative contained a number of concerns related to the implementation of the initiative in the report released January 31, 2003. Those concerns included, but were not limited to:

- The need to develop a methodology to determine a more realistic estimate of the time and resources, both financial and otherwise, necessary to further implement community-based care;
- The need to develop a methodology for implementation of management information system with the capability to allow lead agencies to electronically

transmit all data required by state and federal agencies through one data entry system and produce and provide timely reports on outcomes and budgetary information at the county level;

- The need to develop and implement a more balanced contract monitoring process that ensures there is sufficient focus on program issues;
- The need to develop a methodology and to allocate adequate resources to implement more efficient fiscal processes, including the transfer of funds from community-based care sites with lesser need to those in greater need; the matching of services and expenditures to federal funding sources and categories; the resolution of cash flow problems; and the provision of technical assistance to lead agencies that is necessary for them to master the federal financing requirements;
- The need to commit to the acceleration of an organizational culture change at both the district and regional office levels in order to accommodate further expansion of the community-based care sites;
- The need to examine and review the organizational structure of the department in order to align operations necessary for successful implementation of community-based care statewide, including contracting, accountability mechanisms, quality improvement, and management information systems with the functions of a purchasing entity. This includes funding a development plan to enable current staff to develop new skill sets necessary to succeed in new roles;
- The need to implement measures necessary for successfully managing mid-course corrections, including, but not limited to, the provision of technical assistance to the lead agencies, the continued development and strengthening of the Community-Based Care Leadership Forum, the production and dissemination of written materials designed to educate the public and help in new lead agency development, and the sharing of resources and information among the community-based care sites; and
- The need to examine and review the contradictions inherent in the relationship between the department and the lead agencies in an effort to resolve those contradictions and to develop a method for mediating conflicts that arise as a result of the dual objectives that exist; the need for flexibility at the local level and the need for standardization at the state level.

The bill will allow the Department of Children and Family Services to continue to implement community-based care. The bill also provides for a certification process before services can be transitioned from the department to a lead agency; and provides for an bi-annual report to the Legislature.

Child Welfare Legal Services

Prior to 1990, the Department of Health and Rehabilitative Services (now DCF) was represented in contested child dependency cases by a department attorney in some circuits and by the State Attorney in other circuits. In uncontested dependency cases, department caseworkers who were non-attorneys prepared legal documents and represented the department in judicial proceedings. In 1989 the Florida Supreme Court ruled that the department must have legal representation at all stages of dependency proceedings and that non-lawyer caseworkers could no longer present dependency cases in court. In 1990, the Legislature created Child Welfare Legal Services (CWLS) attorney positions and assigned them to the department.

In March 1996, the Senate Select Committee on Child Welfare Legal Services identified concerns related to the quality and supervision of the CWLS attorneys. As a result, the 1996-1997 Appropriations Act contained funding for three pilot projects that changed the organizational placement of Child Welfare Legal Services from the Department of Health and Rehabilitative Services to the Attorney General in the 17th Judicial Circuit and the State Attorney in the 8th and 16th judicial circuits.

The Legislature directed the Office of Program Policy Analysis and Government Accountability (OPPAGA) to evaluate the three pilots with a report due in February 1997.

The OPPAGA report contained the following findings and recommendations:

- Initial results of the three Child Welfare Legal Services (CWLS) pilot projects are varied. However, it is too early to distinguish the impact of the pilot projects themselves from what may be short-lived effects associated with the transition process;
- Pilot budgets may not have sufficiently provided for start-up costs and may not be adequate for proper litigation and staff retention;
- A number of unresolved policy issues may impede the implementation of the pilot project models on a wider scale. These include the clear identification of the CSLW attorneys' client, jurisdictional boundary complications, and questions of potential conflicts; and
- To more fully determine the effect of the pilot projects, we recommend that the pilots be extended and that an evaluation be conducted after the pilot projects have been in operation for two years.

The follow-up evaluation by OPPAGA was never conducted. The bill provides for that evaluation, delineates the factors to be included, and requires the department to continue its current delivery system for child welfare legal services until otherwise directed by the Legislature.

Unaccompanied Refugee Minors

Currently, §409.953, Florida Statutes, authorizes the Department of Children and Family Services to adopt rules to administer the eligibility requirements for the refugee assistance program. The bill provides the Department of Children and Family Services with the authority to administer the refugee program in accordance with Federal Regulations (45 C.F.R. Part 400 and 401). The Immigration and Nationality Act (INA) at section 101(a)(42) provides for the development of the Office of Refugee Resettlement (ORR) within the Department of Health and Human Services. ORR's mission is to assist refugees and other special populations, as outlined in ORR regulations, in obtaining economic and social self-sufficiency in their new homes in the United States. 45 C.F.R. Parts 400 and 401 detail the ORR regulations pertaining to the Refugee Resettlement Program and the Cuban/Haitian Entrant Program. It prescribes the requirements concerning grants to States and to other public and private non-profit agencies, wherever applicable, under Title IV of the Immigration and Nationality Act.

The bill also authorizes the department or a child-placing or child-caring agency designated by the department to petition the circuit court to establish custody and placement in the Unaccompanied Refugee Minor Program. An Unaccompanied Refugee Minor (URM), as defined in 45 C.F.R. Sec. 400.111, is a person who has not yet attained 18 years of age (or a higher age as established by the State of resettlement in its child welfare plan under Title IV-B of the Social Security Act); who entered the United States unaccompanied by and not destined to join (a) a parent or (b) a close non-parental adult relative who is willing and able to care for the child or (c) an adult with a clear and court-verifiable claim to custody of the minor, and who has no parent(s) in the United States. The Department of Homeland Security identifies a child as unaccompanied at the time of the child's entry into the U.S., except for a child that has been classified as unaccompanied by a State in accordance with Action Transmittal SSA-AT-79-04. The Action Transmittal provides guidelines and standards used to determine if a refugee child who entered the U.S. with a parent, but is unable to remain with them, is eligible to participate in the URM program.

C. SECTION DIRECTORY:

Section 1. Amends §39.202, Florida Statutes, relating to confidentiality of reports and records in cases of child abuse or neglect, to permit and provide the parameters for releasing confidential information from the Department of Children and Families child abuse, neglect, and abandonment records for children who have been identified as missing if the release of the information will facilitate locating the children.

Section 2. Amends §402.40, Florida Statutes, relating to child welfare training, to remove the requirement that Tallahassee Community College be the only contract provider for child welfare training; provides for the development of core competencies; provides for trainer certification; and requires a competitive bidding process related to the components of training.

Section 3. Amends §409.1451, Florida Statutes, relating to independent living transition services, to provide for the independent living services integration workgroup to continue as the independent living services workgroup, provide for duties of the workgroup, and require reports to the House and Senate substantive committees.

Section 4. Amends §409.1671, Florida Statutes, relating to foster care and related services, to provide for the continuation of the implementation of community-based care, to provide for a certification process for the district and the lead agencies transitioning to full service contracts; and to require a bi-annual report to the Legislature.

Section 5. Amends §409.953, Florida Statutes, relating to the refugee assistance program, to allow the Department of Children and Family Services to petition the court to determine custody and placement for unaccompanied refugee minors.

Section 6. Amends 937.021, Florida Statutes, relating to missing child reports, to provide for the filing of police reports for missing children in the county or municipality where the child was last seen.

Section 7. Requires the Office of Program Policy Analysis and Government Accountability to conduct an evaluation of models that could be used for the provision of child welfare legal services; provides direction for the study and requires, that until directed otherwise by the Legislature, the Department of Children and Family Services shall maintain its current delivery system for the provision of such services.

Section 8. Provides for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Under current law, minors eligible for refugee services who arrive with a parent or guardian and later enter the state foster care system may be supported through the state system or transferred to another state's federally-funded Unaccompanied Refugee Minor (URM) program. If re-unification is not possible, the child is likely to stay in the state system. If this legislation passes and a URM program exists in Florida, qualified children could be diverted from the state funding stream to a fully federally funded one.

2. Expenditures:

The Unaccompanied Refugee Minor Program is 100% federally funded. The program will be funded through the Cash and Medical Assistance Grant from the U.S. Department of Health and Human Services. An estimated 24 children will be served at an estimated cost of \$750,000. No General Revenue funds are used in this program.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

While the law currently provides the Department of Children and Family Services with rulemaking authority related to independent living transition services, the bill requires those rules to balance the goals of normalcy and safety for participants in the program and provide caregivers with as much flexibility as possible to allow the young adults in the program to participate in normal life experiences.

The bill authorizes the Department of Children and Family Services to adopt rules to implement and administer the refugee assistance program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On **April 14, 2003**, the **Committee on the Future of Florida's Families** adopted an amendment