

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 279 Abused, Neglected and Abandoned Children
SPONSOR(S): Mealor
TIED BILLS: **IDEN./SIM. BILLS:** SB 1232

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Subcommittee on Children's Services	7 Y, 0 N	Walsh	Liem
2) FFF		Walsh	Liem
3) Education K-20			
4) Subcommittee on Human Services Appropriations			
5) Appropriations			

SUMMARY ANALYSIS

HB 279 requires the Department of Children and Families (DCF) and the community-based-care lead agencies acting on its behalf to enter into agreements with the Department of Education (DOE) and with district school boards regarding the education of children known to the department.

It requires that DCF and the community-based-care lead agencies acting on its behalf provide specific training regarding the education of children known to the department.

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

There is a fiscal impact of \$205,000 resulting from this bill.

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 this bill states that it merely creates goals for the entities involved, the entities 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, community-based care lead agencies, the Department of Education, and district school boards.

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

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 committed as part of its Performance Improvement Plan (PIP), entered into with the federal 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. However, that agreement still has not been completed, despite its agreed-to December 31, 2003, achievement date.

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*, January 2002.

⁵ Outcome Well-Being 2 Children Receive Appropriate Service to Meet their Educational Needs, Item 21 Education Needs of the Child, Action Step 1, Florida PIP 04/01/03, page 71.

Effect of Proposed Bill

HB 279 proposes to integrate more fully the educational resources provided by local school districts into the stream of services provided to children in the dependency system.

Goals, not Rights: The bill establishes goals, not rights enforceable in court, and requires that its provisions must be accomplished within existing appropriations.

Agreement with Department of Education: It requires that DCF and community based care lead agencies (lead agencies) enter into an agreement with the Department of Education (DOE) regarding the education and related care of children known to the department. That agreement is intended to provide those children educational access.

Agreements with Public or Private Entities: The bill requires DCF and lead agencies to enter into agreements with public or private entities to facilitate the delivery of services to children.

Agreements with District School Boards: It requires DCF and lead agencies to enter into agreements with district school boards and other educational entities regarding children known to the department who are school-age or those who are younger than school age but who would otherwise qualify for services from the district.

The agreements must include requirements that DCF and lead agencies:

- Enroll the child in school or continue enrollment in the current school to avoid disruption
- Notify the school and the school district of the name and phone number of the child's caregiver
- Establish a protocol for information sharing between DCF and the lead agency and the school district
- Notify the school district notice of and allow it access to its case planning and review process.

The agreements must also include requirements that the district school boards:

- Provide DCF and lead agencies a general listing of the services and information available to facilitate educational access for these children
- Identify all services provided by the school and school district, which services the school district believes are reasonably necessary to meet the educational needs of a particular child
- Determine whether transportation is available which would avoid a change in school assignment when a child known to the department changes residential placement. DCF and lead agencies, the district school board, and DOE are required to assess the availability of federal, charitable, or grant funding to pay for this transportation.
- Provide individualized student intervention or individual educational plans when such intervention services are needed. These plans are to include strategies to enable the child to receive a high school diploma.

Finally, the agreements must include requirements that DCF and lead agencies and the district school board cooperate in accessing the services needed for a child who has or is suspected of having a disability.

Training: The bill requires DCF and lead agencies to incorporate an "education component" into all their training programs related to children known to the department. DCF and lead agencies must provide educational personnel the opportunity to participate in this training. The training components must include:

- 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 and lead agencies and school-leased contractors on the education of children
- Training of caseworkers regarding the services available through DOE and the local school districts.

C. SECTION DIRECTORY:

Section 1: Creates s. 39.0016, F.S.; defines "children know to the department"; defines "department" as DCF and community-based care lead agencies acting on DCF's behalf; provides that this bill establishes goals and not rights; that nothing in the bill 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; requires department to enter into an agreement with DOE; requires department to enter into agreements with other entities; requires department to enter into agreements with district school boards and other educational entities, and specifies department and district school board requirements; requires department to provide certain specific training.

Section 2: Provides an effective date of July 1, 2004.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT: The following information is provided by DCF. See also "Fiscal Comments" below.

A.	Non-recurring or First-Year Start-Up Effects:	\$205,000	0
B.	Recurring or Annualized Continuation Effects:	0	0
C.	Long-Run Effects Other Than Normal Growth:	0	0
D.	Appropriations Consequences	\$205,000	0

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

See "Fiscal Comments" below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See "Fiscal Comments" below.

D. FISCAL COMMENTS:

DOE has not provided a bill analysis as of yet. The following fiscal information is derived from information provided by DCF.

Generally: The department could be impacted fiscally in three ways. There are concerns regarding sufficient staff capacity to develop and implement the provisions of the agreements at the local level. Also, there are concerns regarding sufficient staff capacity to coordinate and/or provide funding for transportation when a child's residence must change and arrangements to maintain the child in the current school are needed. There are currently no requirements in statute or rule that DCF provide transportation for schooling of dependent or sheltered children. Finally, there would be training implications. Currently, the pre-service training for caseworkers, adoptive parents and foster parents does not provide the information regarding education services and programs which this bill requires. There is no training curriculum established for surrogate parents, birth families when the goal is reunification, or education personnel which would meet the requirements of this bill. The bill provides, however, that DCF will have to provide these services **only** if funding is specifically appropriated for that purpose.

Training: Curriculum development costs are based on \$1000 per hour for 3 hours of training for existing foster and adoptive parents and for new foster and adoptive parents. Also included are curriculum development costs for 3 hours of training for existing and new caseworkers. An additional 3 hours of training would be required to absorb training parents when reunification is the goal, new surrogate parents and education professionals. Total cost: \$9,000.

Classroom training delivery costs are based on \$500 per session for existing caseworkers and existing foster parents. There are approximately 5,000 existing caseworkers and supervisors. There are approximately 10,500 existing foster parents. At 50 participants per session, the costs would be approximately \$155,000. Once the existing participants are trained, costs would be absorbed in on-going pre-service training. Note that the bill requires training of education personnel, parents when reunification is a goal, pre-adoptive parents when adoption is the goal, and surrogate parents. This could add 5,000 new training participants. Training these additional populations would add \$50,000 in classroom training delivery costs. These costs cannot be absorbed as part of the on-going caseworker or foster parents pre-service training. Total cost: \$205,000.

Transportation: There are an estimated 31,600 children currently placed in DCF out of home care. It is estimated that 61% of these children are of school age, a total of 19,276. According to the 2001 CFPSR reviews, 52% of children monitored statewide were found to have had a school change as a result of out of home placement, suggesting that 10,023 children would need transportation. The Department of Education estimates a cost of \$350 per year per child in transportation cost. A total of 10,023 children multiplied by \$350 per year would cost \$3,508,050 per year for transportation services for DCF children placed out of home and in need of transportation to and from school.

DCF also reports that the \$3,508,050 per year transportation cost estimated above is a "worst case scenario," which assumes that a child known to the department would require such transportation for an entire academic year.

Based on this information, district school boards will need to determine whether "transportation is available" for approximately 10,000 children known to the department. Upon such a determination, DCF and lead agencies, the district school board, and DOE must "assess the availability of federal,

charitable, or grant funding” to pay for this transportation. The estimated \$3.5 million could come from federal, private sector, or state and local (grant) sources.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

“Children known to the department”: The definition of “children known to the department” [lines 26-33] is cumbersome. It is recommended that the definition be more simply stated as follows: “Children known to the department” means children who are found to be dependent or children in shelter care.⁶

The defined term should be used consistently throughout the bill. Accordingly, the term “child” or “children” should be replaced by “child known to the department” or “children known to the department.” [lines 77, 82, 85, 90, 92, 110, 120, 124, 128, 134, 140, 143, 144, 146, 167, 172, 173, 175, 176, 177, 179, 181.]

“Department”: The definition of “department” [lines 34-35] is DCF **and** community based care lead agencies. Because of ongoing privatization efforts, DCF will not necessarily be the entity providing foster care and related services to children. Further, the definition would require DCF and all the lead agencies to act collectively when, for example, entering into the required agreement with an individual school district where only one lead agency operates and DCF does not itself provide services. Accordingly, the definition of “department” should be changed to “the Department of Children and Family Services or community-based care lead agency acting on behalf of the Department of Children and Family Services, as appropriate.”

s. 39.0014, F.S.: The bill makes several references to s. 39.0014, F. S., in the context of requiring DOE or the district school boards to cooperate, assist, and provide information to the department [lines 56-58, 71-74, 155-157]. Section 39.0014, F.S., requires that “all state, county, and local agencies shall cooperate, assist, and provide information to the [Department of Children and Family Services] as will enable it to fulfill its responsibilities under this chapter.”

- The statute already requires that these entities cooperate with DCF and each other to enable DCF to fulfill its responsibilities under Chapter 39, F.S.
- The statute does not address the fulfillment of responsibilities of DOE or district school boards.
- The statute does not speak to community-based care lead agencies at all, although the proposed definition of “department” would seek to apply the statute to them.

Accordingly, it is recommended that references to s. 39.0014, F.S. be removed.

⁶ The proposed definition excludes children who receive voluntary protective services, which are services provided to a family which permit the children to remain safely in their own homes. See s. 39.301(14), F.S. Since such children remain in their own homes, their ongoing educational experience is undisturbed.

Agreements with Public or Private Entities: The bill requires DCF and lead agencies to enter into agreements with public or private entities to facilitate the delivery of services to children [lines 59-64]. DCF already has such authority pursuant to ss. 20.19, 39.001, 402.73, F.S. In addition, it is unclear what kinds of agreements are contemplated by this language.

Information sharing: As noted above, s. 39.0014, F.S, requires agencies to provide information to DCF in fulfillment of DCF's Chapter 39 responsibilities. However, access to student educational records is governed by s. 1002.22, F.S. Specifically, s. 1002.22(3)(d), F.S., lists 13 entities which may receive "personally identifiable records or reports of a student ... without the consent of a student or the student's parent." DCF is not among the thirteen.

In order to facilitate the information sharing proposed by HB 279, it is recommended that s. 1002.22(3)(d), F.S., be amended to allow access to student records by the Department of Children and Family Services or its community-based care lead agency, as appropriate.

Educational objective: The bill requires that the agreement between the department and lead agencies and the district school board include a requirement that the individualized student intervention or individual educational plans provided by the school board "include strategies to enable the child to receive a high school diploma" [lines 116-121]. Because a high school diploma may not be the appropriate educational terminus for every child, it is recommended that the bill be amended to replace the phrase "receive a high school diploma" with "maximize the attainment of educational goals."

Training component: The bill requires DCF and lead agencies to incorporate certain specified components into their training programs, including "training of department contractors and school-leased contractors with respect to the education of children and related issues" [lines 180-182]. The term "education of children and related issues" is vague and should be more clearly spelled out so that the department's compliance with this requirement can be ascertained.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

At its February 3, 2004, meeting, the Subcommittee on Children's Services adopted 13 amendments to HB 279. Those amendments were mostly technical in nature, addressing the drafting issues noted above, and included adoption of an amendment to s. 1002.22(3)(d), F.S., which allows DCF or its community-based care lead agency as appropriate, to access foster child student records.

During the meeting, a DCF representative announced that the agency was removing the fiscal note from its submitted bill analysis, and accordingly, there was no fiscal impact to DCF from HB 279. However, upon inquiry, DCF clarified that it was removing from its fiscal note impact specifically attributed to transportation costs, and that the \$205,000 fiscal impact associated with curriculum development costs arising from the bill could be absorbed within existing resources.