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.)

Prepared By: Children, Families, and Elder Affairs Committee

BILL: SB 236

INTRODUCER: Senator Bennett

SUBJECT: Motor Vehicle Insurance for Foster Children

DATE: January 30, 2007 REVISED: 02/07/07

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Goltry	Jameson	CF	**Fav/1 amendment**
2.			HA	
3.				
4.				
5.				
6.				

Please see last section for Summary of Amendments

- [ ] Technical amendments were recommended
- [x] Amendments were recommended
- [ ] Significant amendments were recommended

I. Summary:

Senate Bill 236 establishes a three-year pilot program for the purpose of reimbursing foster parents, residential facilities, or foster children who live independently for a portion of the increased costs of motor vehicle insurance for a foster child who has a driver's license. The bill directs the Department of Children and Family Services (DCF, or the department) to establish the pilot program in Sarasota, Desoto, Manatee, Pinellas, and Pasco, and Hillsborough counties. Through the pilot program, DCF will provide one-half of the amount of the increase which is incurred as a result of adding the foster child to the motor vehicle insurance policy or less than one-half if another source of funding to pay for the increase is available. The bill provides that the foster child must be encouraged to pay the other half of the increase in insurance costs and the department must examine and use any other options that may be available to fund the insurance increase. The department must develop procedures for operating the program.

The bill requires DCF to submit an annual report to the Governor, President of the Senate, and Speaker of the House of Representatives on the success and outcomes of the pilot project, with a recommendation as to whether the project should be continued, terminated, or expanded.

The sum of $150,000 is appropriated from general revenue for DCF, for Fiscal Year 2007-2008, to implement this legislation. The bill directs that if the $150,000 is not enough to cover the costs of the pilot, the appropriate community-based care organization shall fund the difference.

The bill provides for an effective date of July 1, 2007.

II. Present Situation:

The Florida State Youth Advisory Board has long identified the barriers to driving an automobile that are experienced by the children in Florida's foster care system as a concern. The DCF staff concur that foster care children who are not able to learn or gain experience driving miss an important part of learning how to be independent, including being able to work.

Department representatives have participated in the National Governor's Association Policy Academy on Youth Transitioning Out of Foster Care during 2006 and also serve on the legislatively mandated Independent Living Services Advisory Council. Both of these stakeholder groups have identified the need for older youth in foster care to obtain driving permits as a critical concern. This issue was included as the first recommendation for the Legislature in the recently published report by the Independent Living Services Advisory Council.

Children in foster care are usually placed with a foster parent; however, they may also be placed in a group home or other residential facility[1] or, upon turning 16, in an independent living setting which is subsidized by the department.[2] Primary obstacles to these children being able to drive are the potential liability of the foster parents when the children drive vehicles owned by the foster parent and the attendant cost of insurance to protect foster parents from this liability.

A child who is 15 years of age is authorized to obtain a learner's driver's license provided he or she meets the school attendance requirements of s. 322.091, F.S., and the application and testing requirements of s. 322.1615, F.S. Section 322.09, F.S., requires that when a child applies for a driver's license, the application must be signed by a parent, guardian, or, when there is no parent or guardian, some other responsible adult. This same section provides that any negligence or willful misconduct of the child operating a motor vehicle will be imputed to the adult who signed the application. That adult is jointly and severally liable with the child for any damages caused by the negligent or willful misconduct.

In 2001, s. 322.09, F.S., was amended to provide that foster parents or authorized representatives of a residential group home who sign for a foster child's license do not become liable for any damages or misconduct of the child.[3] While this provision relieves the foster parent of liability resulting directly from the signature on the driver's license application, it does not address any vicarious liability that the foster parent may have as a result of the foster parent's ownership of the vehicle which the child drives, *see Hertz Corp. vs. Jackson*, 617 So.2d 1051(Fla. 1993). This liability arises whenever an insured individual allows another to operate his or her motor vehicle and is independent of the provisions of s. 322.09, F.S. Thus, the foster parent who owns the motor vehicle continues to be subject to vicarious liability for the actions of the child while operating the foster parent's vehicle, in the same way the foster parent would be vicariously liable for the actions of any other person operating that vehicle. This vicarious liability is one of the risks for which insurance coverage is purchased.

[1] Section 39.01(30), F.S.
[2] Section 409.1451(4)(C), F.S.
[3] Chapter 2001-83, L.O.F.

Also in 2001, s. 627.746, F.S., was created and prohibited a motor vehicle insurance company from charging an additional premium on a motor vehicle owned by a foster parent for coverage of a child operating the vehicle while the child is holding a learner's driver's license.[4] This prohibition is only applicable until the child obtains a regular driver's license.

Currently, foster parents (foster parents are also referred to as licensed foster homes) receive payment from the state of a monthly board rate for caring for a foster child. The basic board rate for a child age 13-18 is $515 per month, according to the department.

The department reports that some foster children receive social security checks or child support payments which are greater than the amount required for the foster care costs. These excess funds are placed in a master trust fund for the child. The funds could then be used to help fund the motor vehicle insurance costs.

III. Effect of Proposed Changes:

If the bill is enacted, the major effects on youth in foster care will be the enhanced ability to seek and obtain employment, participate in educational and extracurricular activities, and learn self-sufficiency skills. In addition, the implementation of the pilot will assist in evaluating the real and perceived barriers regarding the overall issue for youth, foster parents, residential facilities, and youth living independently. This pilot should result in data and evidence based practice information to share with the insurance industry and provide needed information about potential replication statewide.

Section 1. The bill does not amend a current section of Florida law. The legislation establishes a three-year pilot program for the purpose of reimbursing foster parents, residential facilities, or foster children who live independently for a portion of the increased costs of motor vehicle insurance for a foster child who has a driver's license. The bill directs DCF to establish the pilot program in Sarasota, Desoto, Manatee, Pinellas, Pasco, and Hillsborough counties. Through the pilot program, to the extent that funding is available, DCF will provide one-half of the amount of the increase that is incurred as a result of adding the foster child to the motor vehicle insurance policy or less than one-half if another source of funding to pay for the increase is available. The bill provides that the foster child must be encouraged to pay the other half of the increase in insurance costs.

To be eligible for payment under the pilot program, the person incurring the cost must submit to DCF appropriate documentation demonstrating the increase in the cost of the insurance. The department is to develop procedures for operating the program, including determining eligibility, providing payment, ensuring that payment is limited solely to the additional cost of including the foster child in the insurance policy, and allocating available funds. The department must also utilize other available options for funding the cost of the motor vehicle insurance increase, such as through the child's master trust fund, social security income, child support payments, and other income available to the child.

[4] Chapter 2001-83, L.O.F.

The bill requires DCF, beginning January 1, 2008, and continuing for the duration of the program, to submit an annual report to the Governor, President of the Senate, and Speaker of the House of Representatives on the success and outcomes of the pilot project, with a recommendation as to whether the project should be continued, terminated, or expanded.

Section 2. The sum of $150,000 is appropriated from the General Revenue Fund to DCF to implement the project for Fiscal Year 2007-2008. The bill also provides that if $150,000 is not sufficient to cover the costs of the pilot, the appropriate community-based care organization will fund the difference.

Section 3. The bill provides an effective date of July 1, 2007.

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:

To the extent funding is available, foster parents and residential facilities in the pilot counties will be reimbursed for one-half of the increase in premiums for adding a foster child to their automobile insurance policy. Foster children living independently will also be eligible for reimbursement of half the cost of their automobile insurance policies. This reimbursement may allow more children to obtain insurance, to drive, and to become employed.

Although not specified, the department has the option of utilizing the allocation of $150,000 to contract with a provider to design and administer the pilot as required in the bill. The local community-based care lead agency chief executive officer serving the counties designated for the pilot has expressed support for this bill and willingness to partner to accomplish the legislative intent. Community-based care providers who are under contract with DCF to provide foster care and related services have estimated the administrative costs associated with overseeing the pilot to be eight percent. The bill specifies that the "payment is limited solely to the additional costs of including the foster child in the insurance policy," administrative costs of the community-based care providers are not addressed. However, the community-based care agency directors in the areas covered by the bill have indicated they will cover any additional costs to assure that this legislation is implemented.

C. Government Sector Impact:

The department has estimated the number of children potentially eligible to receive this coverage in the six county pilot areas to be 346. However, the number of children who will actually participate in the program is estimated by DCF to be no more than 35 in 2007-2008, 52 in 2008-2009, and 69 in 2009-2010.

Based on estimates supplied by DCF, the cost of insurance per year for an average teenager in the pilot areas would be approximately $2200 annually.

If all the children identified as potentially eligible for this coverage were to receive it, DCF has estimated the annual cost to be in the range of $380,000. The estimated costs excluding the eight percent administrative costs for 2007-2008 would be approximately $38,500 ($41,580 including administrative costs). For 2008-2009 the costs would be approximately $57,200 ($61,776 with administrative costs), and in 2009-2010 costs would be approximately $75,900 ($81,972 with administrative costs). Total costs for the three-year pilot is estimated to cost $171,600 ($185,328 including administrative costs).

These cost estimates do not include any offsets from master trust funds, social security, or other sources of income.

In order to implement the provisions of the bill, the department or contracted provider will require staff capacity to develop procedures, determine eligibility, develop payment and monitoring processes, and compile results of the pilot in an annual report to the Legislature. This bill provides an appropriation of $150,000 funds to cover unspecified costs associated with implementing the act during Fiscal Year 2007-2008. It also provides that if these funds are not sufficient to cover costs of the pilot, the community-based care agency in the pilot areas shall fund the difference.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill does not address the identified concern that foster parents may have their insurance policies cancelled or the premiums raised if the foster child has an accident while driving their vehicle.

VIII. Summary of Amendments:

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Deletes the requirement that costs of the pilot program in excess of the appropriation will be funded by the community-based care agency.