

By the Committee on Children, Families, and Elder Affairs

586-1471B-07

1 A bill to be entitled
 2 An act relating to special needs children;
 3 amending ss. 110.152 and 409.166, F.S.;
 4 redefining the term "special needs child";
 5 revising provisions relating to the adoption of
 6 children with special needs; revising and
 7 adding definitions; distinguishing between
 8 subsidies and adoption assistance; providing
 9 for an adoption-assistance agreement; providing
 10 an effective date.

12 Be It Enacted by the Legislature of the State of Florida:

14 Section 1. Subsection (1) of section 110.152, Florida
 15 Statutes, is amended to read:

16 110.152 Adoption benefits for state employees;
 17 parental leave.--

18 (1)~~(a)~~ Any full-time or part-time employee of the
 19 state who is paid from regular salary appropriations and who
 20 adopts a special-needs child, as defined in s. 409.166
 21 ~~paragraph (b)~~, is eligible to receive a monetary benefit in
 22 the amount of \$10,000 per child, which is payable in equal
 23 monthly installments over a 1-year period. Any employee of the
 24 state who adopts a child whose permanent custody has been
 25 awarded to the Department of Children and Family Services or
 26 to a Florida-licensed child-placing agency, other than a
 27 special-needs child ~~as defined in paragraph (b)~~, shall be
 28 eligible to receive a monetary benefit in the amount of \$5,000
 29 per child, which is payable in equal monthly installments over
 30 a 1-year period. Benefits paid under this subsection to a
 31 part-time employee must be prorated based on the employee's

1 full-time-equivalency status at the time of applying for the
2 benefits.

3 ~~(b) For purposes of this section, a "special needs~~
4 ~~child" is a child whose permanent custody has been awarded to~~
5 ~~the Department of Children and Family Services or to a~~
6 ~~Florida licensed child placing agency and who is not likely to~~
7 ~~be adopted because he or she is:~~

- 8 ~~1. Eight years of age or older.~~
- 9 ~~2. A person with a developmental disability.~~
- 10 ~~3. A person with a physical or emotional handicap.~~
- 11 ~~4. Of a minority race or of a racially mixed heritage.~~
- 12 ~~5. A member of a sibling group of any age, provided~~
13 ~~that two or more members of a sibling group remain together~~
14 ~~for the purposes of adoption.~~

15 Section 2. Section 409.166, Florida Statutes, is
16 amended to read:

17 409.166 Special needs children; ~~subsidized~~ adoption
18 assistance program.--

19 (1) LEGISLATIVE INTENT.--It is the intent of the
20 Legislature to protect and promote each ~~every~~ child's right to
21 the security and stability of a permanent family home. The
22 Legislature intends to make adoption assistance, including
23 financial aid, available to prospective adoptive parents to
24 ~~financial aid which will~~ enable them to adopt a child in the
25 state's foster care system who, because of his or her special
26 needs, has proven difficult to place in an adoptive home. ~~In~~
27 ~~providing subsidies for children with special needs in foster~~
28 ~~homes, it is the intent of the Legislature to reduce state~~
29 ~~expenditures for long term foster care. It is also the intent~~
30 ~~of the Legislature that placement without subsidy be the~~
31

1 ~~placement of choice unless it can be shown that such placement~~
2 ~~is not in the best interest of the child.~~

3 (2) DEFINITIONS.--As used in this section, the term:

4 (a) "Special needs child" means:

5 1. A child whose permanent custody has been awarded to
6 the department or to a licensed child-placing agency; ~~and~~

7 ~~2.1.~~ A child who has established significant emotional
8 ties with his or her foster parents; or

9 ~~2.~~ is not likely to be adopted because he or she is:

10 a. Eight years of age or older;

11 b. Developmentally disabled ~~Mentally retarded~~;

12 c. Physically or emotionally handicapped;

13 d. Of black or racially mixed parentage; or

14 e. A member of a sibling group of any age, provided
15 two or more members of a sibling group remain together for
16 purposes of adoption; ~~and-~~

17 3. Except when the child is being adopted by the
18 child's foster parents or relative caregivers, a reasonable,
19 but unsuccessful effort has been made to place the child
20 without providing a maintenance subsidy.

21 (b) "Adoption assistance" means financial assistance
22 and services provided to a special needs child and his or her
23 adoptive family. Such assistance may include a maintenance
24 subsidy, medical assistance, Medicaid assistance, and
25 reimbursement of nonrecurring expenses associated with the
26 legal adoption. The term also includes a tuition exemption at
27 a postsecondary career program, community college, or state
28 university, and a state employee adoption benefit under s.
29 110.152.

30 ~~(c)(b)~~ "Department" means the Department of Children
31 and Family Services.

1 (d) "Licensed child-placing agency" has the same
2 meaning as in s. 39.01.

3 ~~(e)(e)~~ "Maintenance subsidy" means a monthly payment
4 as provided in subsection (4) ~~special services or money~~
5 payments.

6 (3) ADMINISTRATION OF PROGRAM.--

7 (a) The department shall establish and administer an
8 adoption program for special needs children to be carried out
9 by the department or by contract with a licensed child-placing
10 agency. The program shall attempt to increase the number of
11 persons seeking to adopt special needs children and the number
12 of finalized adoptions ~~adoption placements~~ and shall extend
13 adoption assistance ~~subsidies and services~~, when needed, to
14 the adopting parents of a special needs child.

15 (b) The department shall collect and maintain the
16 necessary data and records to evaluate the effectiveness of
17 the program in encouraging and promoting the adoption of
18 special needs children.

19 (4) ADOPTION ASSISTANCE.--

20 (a) A maintenance subsidy shall:

21 ~~(b) Authorization for subsidized adoption placement is~~
22 ~~to~~ be granted only when all other resources available to a
23 ~~place the child in question~~ have been thoroughly explored and
24 ~~when~~ it can be clearly established that this is the most
25 acceptable plan for providing permanent placement for the
26 child. The maintenance ~~Adoption~~ subsidy must ~~will~~ not be used
27 as a substitute for adoptive parent recruitment or as an
28 inducement to adopting ~~adopt~~ a child who might be placed
29 without providing a subsidy through nonsubsidized means.
30 However, it shall be the policy of the department that no
31 child be denied adoption if providing a maintenance ~~when~~

1 subsidy would make adoption possible. The best interest of the
2 child ~~must shall~~ be the deciding factor in every case. This
3 section does not ~~Nothing contained herein shall~~ prohibit
4 foster parents from applying to adopt a special needs child
5 placed in their care. Foster parents or relative caregivers
6 must be asked if they would adopt without a maintenance
7 subsidy.

8 ~~(c) The department shall keep the necessary records to~~
9 ~~evaluate the effectiveness of the program in encouraging and~~
10 ~~promoting the adoption of special needs children.~~

11 ~~(4) ELIGIBILITY FOR SERVICES.~~

12 ~~(b)(a)~~ The department may pay either one or both of
13 the following adoption-assistance subsidies to the adopting
14 parents:

15 1. A monthly payment for the ~~For~~ support and
16 maintenance of a special needs child until the 18th birthday
17 of such child, ~~a monthly payment~~ in an amount determined
18 through agreement between the adoptive parents and the
19 department. The agreement shall take into consideration the
20 circumstances of the adopting parents and the needs of the
21 child being adopted, ~~and~~ The amount of the subsidy may be
22 adjusted readjusted periodically based upon changes in the
23 needs of the child or circumstances of the adoptive parents.
24 Changes shall not be made without the concurrence of the
25 adoptive parents. ~~those circumstances.~~ However, ~~in no case~~
26 ~~shall~~ the amount of the ~~adoption subsidy~~ monthly payment shall
27 not exceed the foster care maintenance payment that which
28 would have been paid during the same period if the child had
29 been in a foster family home. ~~Such payment shall be negotiated~~
30 ~~yearly between the parents and the department.~~

1 2. Medical Assistance initiated after the adoption of
2 the child for medical, surgical, hospital, and related
3 services needed as a result of a physical or mental condition
4 of the child which existed before the adoption and not covered
5 by Medicaid, Children's Medical Services, or Children's Mental
6 Health Services. Such assistance for medical, surgical,
7 hospital, and related services needed as a result of a
8 physical or mental condition of the child which existed before
9 the adoption, a subsidy which may be initiated at any time but
10 shall terminate on or before the child's 18th birthday.

11 (5) ELIGIBILITY FOR SERVICES.--

12 (a)(b) As a condition of providing adoption assistance
13 under this section for continuation of the subsidy, the
14 adoptive parents must enter into an adoption-assistance
15 agreement with the department which specifies the financial
16 assistance and other services to be provided shall file a
17 sworn statement with the department at least once each year to
18 include any social or financial conditions which may have
19 changed.

20 (b)(c) A child who is handicapped at the time of
21 adoption shall be eligible for services through ~~of~~ the
22 ~~Division of~~ Children's Medical Services network established
23 under part I of chapter 391 if the child was eligible for such
24 services prior to the adoption.

25 (6)(5) WAIVER OF ADOPTION FEES.--The adoption fees
26 shall be waived for all adoptive parents who ~~participate in~~
27 ~~the program who~~ adopt special needs children in the custody of
28 the department. Fees may be waived for families who adopt
29 children in the custody of a licensed child-placing agency
30 ~~agencies~~ or who adopt children through independent adoptions,
31 and who receive or may be eligible for maintenance subsidies

1 through the department. Retroactive reimbursement of fees is
2 ~~may not be~~ required for families who adopt children in the
3 custody of licensed child-placing agencies.

4 ~~(7)(6)~~ REIMBURSEMENT FOR EXPENSES.--The department is
5 authorized to reimburse, retroactive to January 1, 1987, up to
6 \$1,000 in nonrecurring expenses related to the adoption of a
7 special needs child which have been incurred by adoptive
8 ~~parents who participate in the program for up to \$1,000 in~~
9 ~~nonrecurring expenses the parents incurred relating to the~~
10 ~~adoption.~~ For purposes of this subsection, "nonrecurring
11 expenses" means one-time expenses, such as attorney's fees,
12 court costs, birth certificate fees, travel expenses, agency
13 fees, and physical examination fees.

14 ~~(8)(7)~~ RULES.--The department shall adopt ~~promulgate~~
15 ~~all necessary~~ rules to administer ~~implement the provisions of~~
16 this section.

17 Section 3. This act shall take effect upon becoming a
18 law.

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21 SENATE SUMMARY

22 Revises provisions relating to the adoption of children
23 with special needs to comply with federal requirements.
24 Distinguishes between maintenance subsidies and adoption
25 assistance. Provides for an adoption-assistance
26 agreement.
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