

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – the bill provides for additional responsibilities for the Independent Living Services Advisory Council.

B. EFFECT OF PROPOSED CHANGES:

Independent Living Program

When they become 18, many young adults, a great number of whom have grown up in foster care, lose the support they received while in care. Without the support of a family, they are on their own to obtain further education and preparation for employment, as well as health care, mental health care, and housing. Although youth in foster care have many strengths and a desire to succeed, the reality is that an overwhelming number are leaving care ill prepared for the responsibilities of adulthood. They encounter tremendous obstacles that many times put their emotional, economic, and personal security at risk.

Federal funds for independent living initiatives were first made available to states in 1985 to assist eligible youth 16 years of age and older to make the transition from foster care to independent living.¹ A total of 45 million dollars was authorized for the program across the nation, with state shares based on the number of children/youth in foster care. The U.S. Department of Health and Human Services, Administration for Children, Youth and Families, issued the first set of program instructions to the states in early 1987. Each state was able to determine the nature and scope of their independent living program, but guidelines from the federal government provided recommended specific program components. The recommended list included services such as GED or vocational training, daily living skills, job readiness and employability skills, and assistance obtaining higher education.

In a further effort to increase services and strengthen state programs for teens in foster care, Congress passed the Foster Care Independence Act of 1999, which was signed into law as the John H. Chafee Foster Care Independence Program. The Chafee Program made substantial changes in federal efforts targeted toward youth and young adults up to age 21 in the foster care component of the child welfare system. The law significantly improved the ability of states to achieve the national goals of safety, permanence, and well-being for youth and young adults in the child welfare system and required states for the first time to serve youth younger than 16 years of age.²

Florida Law

With the passage of the federal law and increased available funding, the 2002 Legislature established a new framework for Florida's independent living transition services to be provided to these older youth by the department. Specifically provided for was a continuum of independent living transition services to enable older children who are 13 but not yet 18 years of age and in foster care and young adults who are 18 but not yet 23 years of age who were formerly in foster care to develop the skills necessary for successful transition to adulthood and self-sufficiency. Service categories established include the following:

- Pre-independent living services which include life skills training, educational field trips and conferences for children in foster care who are 13 but not yet 15 years of age;

¹ The Independent Living Program was initially authorized by Public Law 99-272, through the addition of section 477 to Title IV-E of the Social Security Act.

² See P.L. 106-169.

- Life skills services which include independent living skills training, educational support, employment training and counseling for children in foster care who are 15 but not yet 18 years of age; and
- Subsidized independent living services which are services provided in living arrangement that allow a child who is 16 but not yet 18 years of age to live independently of adult supervision under certain specified circumstances.

In 2007, s. 409.1451(3)(a)3., Florida Statutes, was amended to provide that in order to support the provision of opportunities for participation in age-appropriate life skills activities, the department shall:

Develop procedures to maximize the authority of foster parents or caregivers to approve participation in age-appropriate activities of children in their care. The age-appropriate activities and the authority of the foster parent or caregiver shall be developed into a written plan that the foster parent or caregiver, the child, and the case manager all develop together, sign, and follow. This plan must include specific goals and objectives and be reviewed and updated no less than quarterly. Foster parents or caregivers who have developed a written plan as described in this subparagraph shall not be held responsible under administrative rules or laws pertaining to state licensure or have their licensure status in any manner jeopardized as a result of the actions of a child engaged in the approved age-appropriate activities specified in the written plan.³

The bill further amends this subparagraph to provide a reference to “family foster homes” and “residential child-caring agencies” regarding authority to approve participation in age-appropriate activities for children in out of home care.

Independent Living Services Advisory Council

In the 2002 legislation that established independent living transition services, DCF was directed to form an Independent Living Services Integration Workgroup for the purpose of assessing the barriers to the coordination of services and supporting transition to independent living, with a report to be submitted to the Legislature by December 31, 2002.⁴ In 2003, the Independent Living Services Integration Workgroup was replaced with the Independent Living Services Workgroup.⁵ The representation on the workgroup remained the same with representatives from state agencies involved in service delivery to older foster children as well as representatives from the State Youth Advisory Board and foster parents. The charge to the workgroup was expanded to include assessing the implementation of the independent living transition services system, keeping the Department of Children and Families informed of the problems surfacing and successes experienced with the independent living transition services, and advising the department on strategies that would improve the ability of the system to meet its goals.

In 2004, the name of the workgroup was changed to the Independent Living Services Advisory Council (council) with the stated purpose of reviewing and making recommendations concerning the implementation and operation of the independent living transition services program.⁶

The bill requires the council to include in the report due to the Legislature on December 31, 2008, an analysis of the system of independent living transition services for young adults who attain 18 years of age while in foster care prior to completing high school or its equivalent and recommendations for DCF or legislative action. The council is also required to assess and report on the most effective method of assisting these young adults to complete high school or its equivalent by examining the practices of other states.

³ See Chapter 2007-147, Laws of Florida.

⁴ See Chapter 2002-19, Laws of Florida.

⁵ See Chapter 2003-146, Laws of Florida.

⁶ See Chapter 2004-362, Laws of Florida.

C. SECTION DIRECTORY:

Section 1. Amends s. 409.1451, Florida Statutes, relating to independent living transition services.

Section 2. Provides for an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

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:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

- On lines 41-59 of the bill, a reference to “family foster homes” and “residential child-caring agencies” is added to s. 409.1451(3)(a)3., Florida Statutes, relating to authority to approve participation in age-appropriate activities for children in out of home care. This would appear to imply that these two entities are additions to those currently included in this subparagraph, nonetheless, “family foster homes” and “residential child-caring agencies” are already included in the definition of caregiver.⁷
- On lines 43 and 53 of the bill, it is unclear who would be included in “other authorized” caregiver that is not already included in the current definition of caregiver and who would provide such authorization. It is also unclear why the term “other authorized” is included on line 43 and 53 and not on lines 46 and 48.
- It would appear to be inconsistent to reference the terms “family foster homes” and “residential child-caring agencies” only in s.409.1451(3)(a)3., Florida Statutes, and not in other places in the section, for example, in the provisions related to the development of early achievement and career goals for the child’s postsecondary educational and work experience.⁸
- On lines 85-91 of the bill, it is unclear how this newly created requirement differs from the current mandate of the council of reviewing and making recommendations concerning the implementation and operation of the independent living transition services program.

⁷ See the following definitions in current law:

- 39.01(10) "Caregiver" means the parent, legal custodian, permanent guardian, adult household member, or other person responsible for a child's welfare as defined in subsection (46).
- 39.01(46) "Other person responsible for a child's welfare" includes the child's legal guardian or **foster parent; an employee of any** school, public or private child day care center, **residential home**, institution, **facility**, or **agency**; a law enforcement officer employed in any facility, service, or program for children that is operated or contracted by the Department of Juvenile Justice; or any other person legally responsible for the child's welfare in a **residential setting**; and also includes an adult sitter or relative entrusted with a child's care. For the purpose of departmental investigative jurisdiction, this definition does not include the following persons when they are acting in an official capacity: law enforcement officers, except as otherwise provided in this subsection; employees of municipal or county detention facilities; or employees of the Department of Corrections. (emphasis added)
- 409.175(2)(e) "Family foster home" means a **private residence** in which children who are unattended by a parent or legal guardian are provided 24-hour care. Such homes include emergency shelter family homes and specialized foster homes for children with special needs. A person who cares for a child of a friend for a period not to exceed 90 days, a relative who cares for a child and does not receive reimbursement for such care from the state or federal government, or an adoptive home which has been approved by the department or by a licensed child-placing agency for children placed for adoption is not considered a family foster home. (emphasis added)
- 409.175(2)(j) "Residential child-caring agency" means any person, corporation, or agency, public or private, other than the child's parent or legal guardian, that provides staffed 24-hour **care for children in facilities** maintained for that purpose, regardless of whether operated for profit or whether a fee is charged. Such **residential** child-caring agencies include, but are not limited to, maternity homes, runaway shelters, group homes that are administered by an agency, emergency shelters that are not in private residences, and wilderness camps. Residential child-caring agencies do not include hospitals, boarding schools, summer or recreation camps, nursing homes, or facilities operated by a governmental agency for the training, treatment, or secure care of delinquent youth, or facilities licensed under s. 393.067 or s. 394.875 or chapter 397. (emphasis added)

⁸ See s. 409.1451(3)(b), Florida Statutes.

- On lines 92-95 of the bill, there is an additional requirement for the council that may be duplicative of work that is already being planned:

The bill analysis provided by the department states that, "In its response to the 2007 legislatively mandated report, the Department has committed to collaborate with the Council to convene a group to study the issue of youth transitioning out of foster care while still in high school."

D. STATEMENT OF THE SPONSOR

No statement provided.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES