

## **FINAL BILL ANALYSIS**

**BILL #:** *SB 404*

**FINAL HOUSE FLOOR ACTION:**

*118 Y's      1 N's*

**SPONSOR:** *Sen. Wise (Rep. Porth)*

**GOVERNOR'S ACTION:** *Approved*

**COMPANION BILLS:** *CS/CS/HB 739*

---

### **SUMMARY ANALYSIS**

SB 404 passed the House on May 6, 2011. The bill was approved by the Governor on June 29, 2011, chapter 2011-236, Laws of Florida, and takes effect July 1, 2011.

The bill allows the Department of Juvenile Justice (DJJ) to provide older youth in its custody or under its supervision opportunities to participate in activities and services that assist in transition to adulthood. The bill also ensures that youth, who are in the custody of the Department of Children and Family Services (DCF) and enter a DJJ residential program, remain eligible for DCF services including independent living transition services.

The bill also permits the court to retain jurisdiction over a child for a year beyond the child's 19th birthday if they are participating in the transition to adulthood program.

The bill creates the College Preparatory Boarding Academy Pilot Program for the purpose of providing educational opportunities to dependent or at-risk children. The bill establishes the process by which the State Board of Education is to select private non-profit corporations to operate the program. The bill also outlines the criteria for operating the program and establishes annual reporting requirements to track the progress of the program and the students within the program.

The fiscal impact to state and local government is indeterminate, but will be significant.

The bill provides an effective date of October 1, 2011, except as otherwise specified in the bill.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### Current Situation

##### Independent Living Transition Services

The Department of Children and Family Services (DCF) administers a system of independent living transition services to assist older children in foster care and 18 year olds exiting foster care to transition into self-sufficient adults.<sup>1</sup> This program was created in 2002, utilizing both state and federal funds to provide a continuum of services and financial assistance to prepare current and former foster youth to live independently.<sup>2</sup> Under the program, DCF serves children who have reached 13 years of age but are not 18 years of age and are in foster care.<sup>3</sup> DCF also serves young adults who have turned 18 years old but are not 23 years old and were in foster care when they turned 18 years old. They also serve youth, who after turning 16 years old were adopted from foster care or placed with a court approved dependency guardian and spent at least 6 months in foster care within the 12 months preceding placement or adoption.<sup>4</sup>

The DCF program provides services to assist young adults in obtaining life skills and education for independent living and employment.<sup>5</sup> Private and county government-based child welfare organizations deliver these services through the community-based care system.<sup>6</sup> DCF includes youth that have been adjudicated dependent and/or delinquent in independent living services programs. Foster youth who have been adjudicated delinquent and enter a juvenile justice placement are the shared responsibility of DCF and the Department of Juvenile Justice (DJJ).<sup>7</sup> Current law provides no specific statutory requirement that requires DCF to provide independent living transition services to youth who are in foster care and also are being served by the DJJ. DCF presumes that these youth remain eligible for independent living transition services.<sup>8</sup>

##### Department of Juvenile Justice

DJJ is tasked with providing conditional release services to youth exiting juvenile justice residential programs. Conditional release is the care, treatment, help, and supervision provided to juveniles released from residential commitment programs to promote rehabilitation and prevent recidivism.<sup>9</sup>

The program is intended to help prepare youth for a successful transition from DJJ commitment back to the community. Each youth in a DJJ residential program must be assessed to determine need for conditional release.

If upon leaving a DJJ residential program a youth's family abandons him or her or refuses to resume their parental duties, the youth has two options. First, he or she may use review teams,

---

<sup>1</sup> S. 409.1451, F.S.

<sup>2</sup> *Id*

<sup>3</sup> S. 409.1451(2)(a), F.S.

<sup>4</sup> S. 409.1451(2)(b), F.S.

<sup>5</sup> S. 409.1451(1)(b), F.S.

<sup>6</sup> S. 409.1671, F.S.

<sup>7</sup> Staff Analysis, HB 739 (2011), Department of Children and Family Services. (On file with committee staff).

<sup>8</sup> *Id*

<sup>9</sup> S. 985.46(1)(a), F.S.

which are created through the interagency agreement with DCF and other agencies to remove obstacles that caused a parent to abandon the child, thus allowing the youth to return to their family. The youth may also call the DCF Central Abuse Hotline and file a report, which could result in an investigation by a child protective investigator if the report meets the statutory definition of abuse, neglect, or abandonment.<sup>10</sup> If, following the investigation, it is determined that the youth is in need of protection and supervision by the court, DCF is required to file a petition for dependence.<sup>11</sup> Once adjudicated dependent, DCF will take responsibility for serving the youth through the foster care system which may include independent living transition services.

### Court Jurisdiction

A child who has committed a delinquent act will usually remain under the jurisdiction of the court, unless otherwise relinquished, until the child's 19th birthday. The court may also retain jurisdiction for a child beyond 19 years for special circumstances such as commitments to juvenile prison or high risk residential programs.<sup>12</sup>

### Charter Schools

Florida law specifies that all charter schools are considered public schools.<sup>13</sup> Charter schools are formed through the creation of a new school or the conversion of an existing public school.<sup>14</sup> A charter, or the written contractual agreement between the sponsor and applicant, establishes the terms and conditions of operation.<sup>15</sup> According to the Department of Education (DOE), there were 118,169 students enrolled in 389 charter schools operating in the state for the 2008-2009 school year.<sup>16</sup>

Existing charter schools are sponsored by a district school board or a state university, in which case the charter school was converted from a lab school to a charter lab school. Sponsors are responsible for monitoring the charter school, reviewing revenues and expenditures, and ensuring innovation and consistency with state education goals, including the state accountability system.<sup>17</sup> Charter lab school applications are subject to review by the state university in consultation with the district school board in that jurisdiction.<sup>18</sup> With the exception of the charter lab schools, district school boards review and approve charter school applications.<sup>19</sup>

A sponsor must provide certain administrative and educational services to charter schools (e.g., contract management services, FTE and data reporting services, exceptional student education administration services, services related to eligibility and reporting duties required for school lunch services under the federal lunch program).<sup>20</sup> The sponsor may withhold up to 5 percent of

---

<sup>10</sup> S. 39.301(9)(b), F.S.

<sup>11</sup> *Id.*

<sup>12</sup> S. 985.0301, F.S.

<sup>13</sup> S. 1002.33(1), F.S.

<sup>14</sup> *Id.*

<sup>15</sup> S. 1002.33(6)(i), F.S.

<sup>16</sup> See [https://www.floridaschoolchoice.org/information/charter\\_schools/files/fast\\_facts\\_charter\\_schools.pdf](https://www.floridaschoolchoice.org/information/charter_schools/files/fast_facts_charter_schools.pdf).

<sup>17</sup> S. 1002.33(5)(b), F.S.

<sup>18</sup> S. 1002.33(6)(h), F.S.

<sup>19</sup> S. 1002.33(6)(b), F.S.

<sup>20</sup> S. 1002.33(20), F.S.

the funding for the charter school for the provision of the administrative services. The law provides for the calculation of the fee.<sup>21</sup>

## **Effect of Changes**

The bill creates a definition for “transition to adulthood” to mean services for youth, which are in the custody or supervision of DJJ, to provide them with knowledge, skills and aptitudes to assist them in their adult lives. The bill also defines the services which may be included under this definition including assessment, plan development and services toward achieving transition to adulthood.

The bill provides Legislative intent that DJJ may provide older youth in custody or under supervision the opportunity to participate in transition to adulthood services. This appears to be a similar and augmented authority to what currently exists in the conditional release program operated by DJJ for youth transitioning back to the community.<sup>22</sup>

The bill also provides that youth who enter a DJJ placement from a foster care placement, and who are in legal custody of DCF are eligible to receive independent living transition services pursuant to s. 409.1451, F.S. The bill also provides that court ordered commitment or probation are not barriers to eligibility for youth to receive the array of services available if they were in foster care alone. This is consistent with current DCF policy.

The bill provides that adjudication of delinquency may not be considered by itself as disqualifying criteria for eligibility in DCF’s Independent Living Program.

The bill permits DJJ to assess youth prior to placement in a transition to adulthood program. The assessment will include determining the youth’s ability to live independently and become self-sufficient. DJJ is also given authority to develop a list of age-appropriate activities and responsibilities. Some of the activities include, but are not limited to, life skills training, banking and budgeting skills, interviewing and career planning skills, parenting skills, personal health management, time management or organizational skills, educational support, employment training, and counseling.

The bill permits DJJ to request parental or guardian consent for the youth to participate in the transition to adulthood program. The activities the youth will participate in and other transition services are to be incorporated into an overall plan which must be reviewed and updated quarterly. The plan must not interfere with parents or guardians rights to train the child.

DJJ is also given authority to contract for transition to adulthood services including residential services. The bill provides for program eligibility to include youth at least 17 but not yet 19 years of age and who are not a danger to the public and have a demonstrated aptitude for the program. The effect of this change will permit DJJ to provide services to youth in their custody or supervision to increase their ability to live independently and become self-sufficient adults.

The bill also allows the court to retain jurisdiction for an additional 365 days beyond a youth’s 19<sup>th</sup> birthday if he or she is participating in a DJJ transition to adulthood program. This is similar

---

<sup>21</sup> *Id.*

<sup>22</sup> S. 985.46, F.S.

to the provision for continued court jurisdiction of up to one year for children from the foster care system who are participating in the Independent Living program administered by DCF.<sup>23</sup>

The bill creates the College Preparatory Boarding Academy Pilot Program (Program) for dependent and at-risk students. The Program is to be implemented by the State Board of Education (Board) and the individual academies are to be operated by a private, non-profit corporation (operator) pursuant to certain criteria and a contract between the Board and operator.

The bill defines an “eligible student” for the Program as a student who is a resident of the state; is entitled to attend school in a participating school district; is at risk of academic failure; is currently enrolled in grade 5 or 6; and is from a family whose income is below 200 percent of the federal poverty guidelines. In addition, an “eligible student” must meet at least two of the following risk factors:

- The student has a record of suspensions, office referrals, or truancy.
- The student has not achieved at least a proficient score on state assessments in English and language arts, reading, or mathematics or has been referred for academic intervention.
- The student’s parent is a single parent.
- The student does not live with his or her custodial parent.
- The student resides in a household that receives a housing voucher or is eligible for public housing assistance.
- A member of the student’s immediate family is in jail or prison.
- The student has been declared an adjudicated dependent.
- The student has received a referral from a school, teacher, counselor, dependency circuit court judge or community-based care organization.
- The student meets any additional criteria established by an agreement between the Board and an operator of a college-preparatory boarding academy.

The Program is defined as a college-preparatory boarding academy for at-risk students which includes:

- A remedial curriculum for middle school grades;
- A college-preparatory curriculum for high school grades;
- Extracurricular activities, including sports and cultural events;
- College admissions counseling;
- Health and mental health services;
- Tutoring;
- Community service and service learning opportunities;
- A residential student life program;
- Extended school days and supplemental programs; and
- Professional services focused on language arts and reading, mathematics, science, technology and developmental or life skill standards using innovative and best practices for all students.

Within 60 days of the effective date of the bill, the Board must issue Request for Proposals from prospective operators of the Program. The proposals must include the proposed location of the

---

<sup>23</sup> S. 39.013, F.S.

college-preparatory boarding academy, a plan for offering a grade 6 level within the first 2 years of operation and for offering additional grade levels in subsequent years, and any other information deemed necessary by the Board. Within 120 days of the issuance of the Request for Proposals, the Board must select the operator of the college-preparatory boarding academy. The operator must meet the following criteria:

- The operator has a public charter school under s. 1002.33, F.S., to offer grade 6 through 12 or has a partnership with a sponsor who has a public charter school to operate the school.
- The operator has experience operating a school or program similar to the Program established by the bill.
- The operator has demonstrated success in operating a school or program similar to the Program established by the bill.
- The operator can finance the construction of a campus for the school or has the ability to raise funds for construction of a campus for the school.

The Board is required to contract with the operator of a college-preparatory boarding academy for operation of the Program. The contract must stipulate that:

- The academy can operate only as long as it holds a valid charter under s. 1002.33, F.S., or is authorized to operate a school under a valid charter of a sponsor, such as a local school district, pursuant to s. 1002.33, F.S.
- The operator must finance and oversee the acquisition of a facility for the academy.
- The operator must operate the Program pursuant to the proposal that was accepted by the Board.
- The operator must comply with the section of law established by the bill.
- The operator must comply with any other provision of law specified in the contract, with the charter of the sponsor of the public charter school or the operating agreement with the sponsor, and the rules adopted by the Board to implement this section of law.
- The operator must comply with the bylaws it is required to enact by the bill.
- The operator must comply with standards of admission and dismissal of students, which are to be included in the contract and reevaluated and revised as needed upon agreement between the operator and the Board.
- The operator must meet academic goals and performance standards outlined in the contract.
- The Board or the operator may terminate the contract pursuant to the process detailed in the contract with prior written notice.
- The school may be closed pursuant to the terms and procedures for closing included in the contract.

The bill requires the operator to adopt bylaws for the operation and oversight of the college-preparatory boarding academy. The bylaws must include the procedure for appointing members to the board of trustees of the academy, which are not to exceed 25 members. The bylaws are subject to the approval by the Board.

The bill also requires the operator to develop an outreach program with the local school district or education agency. The outreach program must give special attention to children in the state foster care program or in a program to prevent dependency, who are academic underperformers. The purpose of the outreach program is to recruit these types of children for the academy and to develop the children into potential college-bound students.

The bill directs the Department of Education, the Department of Juvenile Justice, and the Department of Children and Family Services to develop a plan for funding the college-preparatory boarding academies with funds that would have been used by the agencies to provide services to students who are now residing and studying at the academies. The plan for repurposing the funds must be based on federal and state funding sources for children and families that meet the definition of "eligible student" contained in the bill. The plan must obtain budgetary support through budget requests in the legislative budget process pursuant to s. 216.023, F.S., or through requests for budget amendments submitted to the Legislative Budget Commission pursuant to s. 216.181, F.S.

Beginning in August 2012, the bill requires 80 students to be admitted to the program. For each year thereafter, 80 students are to be admitted to the program until total enrollment reaches 400 students.

The bill states that children who adjudicated dependent and attend a college-preparatory boarding academy are to remain under case management services and under the supervision of a lead agency and its providers. The operator is permitted to contract with lead agencies and providers in order to maintain a continuity of services to the adjudicated dependent students.

The bill confirms that nothing contained in the bill is intended to prevent an operator from appropriately billing Medicaid for services rendered to students. Also, the bill clarifies that an operator may earn federal or state funding for services rendered to students. To that end, an operator is permitted to house and educate dependent, at-risk youth pursuant to the Program.

The bill provides for a lottery drawing for admission to the Program if the number of applications received by the operator exceeds the available slots at the academy.

The bill exempts the Program from ss.409.1677 (3) (d) and 409.176, F.S. Both of these sections of statute relate to the registration of child care agencies and the provisions that regulate them. Current statute provides that foster care facilities that house youth be licensed and regulated by DCF. The bill exempts the Program from these regulations.

The bill requires an annual report to be issued for each academy in operation by the Board to the Department of Education. In addition, the bill requires each academy to submit an annual report to the Department of Education that includes total enrollment, the number of students receiving special education services, and any additional information specified in the contract between the Board and the operator.

The bill requires the operator to comply with all provisions of s. 1002.33, F.S. In addition, the operator must assess the reading and mathematical skills of its students on an annual basis. The operator is required to provide sufficient information to each student's legal guardian regarding the student's progress and level of learning attained during the past school year.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

See Fiscal Comments.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

The fiscal impact is indeterminate, but will be significant. The bill requires that the Department of Education, the Department of Juvenile Justice, and the Department of Children and Family Services develop a funding plan for operation of the school using repurposed federal and state funding sources that would have otherwise been committed for the students. The plan must be submitted to the Legislative budget commission for approval.