

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #:	CS/HB 977	FINAL HOUSE FLOOR ACTION:	
SPONSOR(S):	Health Care Appropriations Subcommittee; Albritton; and others	115 Y's	0 N's
COMPANION BILLS:	CS/SB 744	GOVERNOR'S ACTION:	Approved

SUMMARY ANALYSIS

CS/HB 977 passed the House on April 23, 2014. The bill was amended by the Senate on May 1, 2014, and subsequently passed the House on May 2, 2014.

The bill directs the Department of Children and Families (DCF) to establish a statewide pilot program to pay costs of driver education, licensure and costs incidental to licensure, and motor vehicle insurance for a foster child who meets certain qualifications. The bill sets limits on the amounts to be paid and requires payments to be made in the order of eligibility until funds are exhausted. The bill requires DCF to contract with a qualified not-for-profit entity to administer the program and to submit an annual report to the Governor and the Legislature.

The bill provides for the removal of the disability of nonage of minors by court order for foster children for the purpose of obtaining motor vehicle insurance. To qualify, the foster child must be at least 16 years of age, have been adjudicated dependent, reside in an out-of-home placement, and have completed a driver education course. The bill provides for preferential enrollment in driver education for specified children in the care of the department.

The bill also adds consideration of removing the disability of nonage for insurance purposes to the activities that occur at the special judicial review held when a child becomes 17 years of age.

The bill provides \$800,000 to DCF in recurring funds from the General Revenue Fund for Fiscal Year 2014-2015 to implement the bill.

The bill was approved by the Governor on June 19, 2014, ch. 2014-166, L.O.F., and will become effective on July 1, 2014.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Background

Foster Children

Both Florida law and administrative code support the efforts of teens in foster care to engage in age-appropriate activities.¹ Department of Children and Families (DCF) rules specifically require community-based lead agency service providers to assist teens in foster care who have demonstrated the appropriate level of maturity in obtaining a learner's permit or driver license and automobile insurance.²

As of January 31, 2014, DCF reported that there were 385 15-year-olds, 458 16-year-olds, and 517 17-year-olds in foster care.³ A survey of youth in foster care published in the June of 2013 indicated:

- 5 percent of 15-year-old respondents (11 children of 243 surveyed) had learner's permits;
- 8 percent of 16-year-olds (25 children of 300 surveyed) had learner's permits;
- 13 percent of 17-year-olds (52 children of 387 surveyed) had learner's permits;
- 9 percent of the total number of children surveyed (88 of 930 surveyed) had learner's permits;
- 1 percent of 16-year-olds (4 children of 300 surveyed) had driver licenses;
- 4 percent of 17-year-olds (16 children of 387 surveyed) had driver licenses; and
- 3 percent of the total number of children surveyed (20 of 687 surveyed) had driver licenses.⁴

Driver Licenses

A child who is 15 years of age is authorized to obtain a learner's driver license (learner's permit) 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.⁵ In order to obtain a learner's permit, the person applying must, among other requirements, have completed a traffic law and substance abuse education course and have passed a written examination.⁶ The holder of a learner's permit must be accompanied by a driver who is at least 21 years old, holds a valid driver license, and sits in the seat to the right of the driver when the child is operating a motor vehicle.⁷ When a child applies for a learner's permit, the application must be signed by a parent, guardian, or when there is no parent or guardian, some other responsible adult.⁸

Once a child has held a valid learner's permit for at least 12 months the child is eligible for a driver license.⁹ In order to obtain this license, the child must take a driving test in which the child demonstrates the ability to perform certain driving maneuvers.¹⁰ Driver's education courses are offered free of charge through the public school system, but enrollment may be limited. Some school districts offer a summer driver's education course, charging fees from \$50 to \$250.¹¹ Commercial courses are

¹ See s. 409.145(3), F.S.

² Rule 65C-30.007, F.A.C.

³ The Department of Children and Families Analysis of HB 977, February 1, 2014, on file with committee staff.

⁴ My Services, Answers from Youth in Foster Care, the Department of Children and Families, *accessible at*: <http://www.dcf.state.fl.us/programs/indliving/docs/MyServicesSpring2013SurveyReport.pdf> (last visited March. 18, 2014).

⁵ S. 322.05, F.S.

⁶ S. 322.1615(1), F.S.

⁷ S. 322.1615, F.S.

⁸ S. 322.09, F.S.

⁹ S. 322.05, F.S.

¹⁰ Licensing Requirements for Teens, the Florida Department of Highway Safety and Motor Vehicles, *accessible at*: <http://www.flhsmv.gov/ddl/teendriv.html> (last visited May 7, 2014).

¹¹ Florida Guardian ad Litem, A Voice Heard: Keys to Independence, available at http://guardianadlitem.org/news_main.asp

offered in some jurisdictions at prices ranging from \$300-\$5,000.¹² After obtaining a driver license, children under 18 no longer have to be accompanied by another adult driver when driving, but the hours during which these children can drive are limited.¹³

The fee for obtaining a learner's permit or driver license is \$48.13.¹⁴

Any negligence or willful misconduct by a child operating a motor vehicle while holding a learner's permit or a driver license is imputed to the adult who signed the application.¹⁵ That adult is jointly and severally liable with the child for any damages caused by the child's negligent or willful misconduct.¹⁶ The adult signing the application can request that the license or permit of the minor be cancelled by the Department of Highway Safety and Motor Vehicle, which then relieves that adult from liability.¹⁷

Driver's Licenses and Foster Children

Among the primary obstacles to foster children being able to drive is the potential liability of the foster parents when the children drive vehicles owned by the foster parents and the attendant cost of insurance to protect foster parents from this liability.

Section 322.09, F.S., provides that foster parents or authorized representatives of a residential group home who sign for a foster child's license or learner's permit are not liable for any damages or misconduct of the child.¹⁸ 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.

Section 627.746, F.S., prohibits 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 permit. This prohibition is only applicable until the child obtains a driver license.¹⁹

(last visited March 5, 2014).

¹² Florida Guardian ad Litem, A Voice Heard: Keys to Independence, available at http://guardianadlitem.org/news_main.asp (last visited March 5, 2014).

¹³ Licensing Requirements for Teens, the Florida Department of Highway Safety and Motor Vehicles, *accessible at* <http://www.flhsmv.gov/ddl/teendriv.html> (last visited May 7, 2014).

¹⁴ S. 322.21, F.S.

¹⁵ S. 322.09(2), F.S.

¹⁶ S. 322.09(2), F.S.

¹⁷ S. 322.10, F.S.

¹⁸ Chapter 2001-83, Laws of Fla.

¹⁹ Chapter 2001-83, Laws of Fla.

Disability of Nonage

Disability of nonage relates to a minor's lack of legal ability to enter into binding contracts.²⁰ However, a court may remove this disability of nonage for minors who meet certain conditions, granting them the same rights to contract as adults.²¹

Chapter 743, F.S., requires the court, under specified circumstances, to remove disabilities of nonage for foster children so they may execute contracts for a residential lease (s. 743.045, F.S.), secure utility services at a residential property (s. 743.046, F.S.), and execute agreements for depository financial services (s. 743.044, F.S.).

Section 39.701(3), F.S., requires that the dependency court hold a judicial review within 90 days following a dependent child's 17th birthday, at which the court is required to enter an order that the disability of nonage for the child has been removed pursuant to s. 743.045, F.S, to allow the child to execute a contract for a residential lease.²²

Florida law does not address removal of the disability of nonage for foster children for purposes of obtaining motor vehicle insurance.

Effect of Proposed Changes

The bill makes a legislative finding that the costs of driver education, driver licensing and costs incidental to licensing, and motor vehicle insurance (insurance) for a child in foster care after the child obtains a driver license create additional barriers to the child engaging in normal age-appropriate activities and gaining independence and may limit opportunities for the child to obtain employment and complete educational goals.

Pilot Program

The bill requires DCF to establish a three-year pilot program to pay the costs of driver education, driver licensing, and motor vehicle insurance for children in foster care who have completed a driver education course. The bill states that the pilot program is subject to available funding.

The bill requires DCF to pay a caregiver, or an individual or not-for-profit entity approved by the caregiver, if the individual or entity adds a child to the caregivers' or entity's insurance policy. The bill specifies that the payment may not exceed the amount of the increase in the cost attributed to the addition of the child to the policy. The bill requires DCF to make payments to eligible recipients in the order of eligibility until available funds are exhausted.

The bill requires DCF to contract with a not-for-profit organization with a mission to support children aging out of foster care to develop procedures for operating and administering the pilot program. The bill specifies that in developing procedures and administering the program, the not-for-profit organization, at a minimum, must:

- Determine eligibility, including responsibilities for the child and caregivers;
- Develop application and payment forms;
- Notify eligible children, caregivers, group homes, and residential programs of the pilot project; and
- Provide technical assistance to lead agencies, providers, group homes, and residential programs to support the removal of obstacles for children in foster care to drive.

²⁰ 25 Fla. Jur 2d Family Law § 240.

²¹ *Id.*; See also ss. 743.01 (marriage), 743.015 (petition by guardian or guardian ad litem), and 743.067 (petition by unaccompanied youth), F.S.

²² S. 39.701(1), F.S.

The bill requires DCF to submit a report on the success and outcomes achieved by the pilot program, including a recommendation as to whether the pilot program should be continued, terminated or expanded, to the Governor, the Speaker of the House of Representatives, and the President of the Senate. The report is required to be submitted annually, with the first report due July 1, 2015.

Disability of Nonage

To enable a child in foster care to obtain motor vehicle insurance, the bill requires the removal of the child's disability of nonage to contract for such insurance provided the child is 16 years old, has been adjudicated dependent, is residing in an out-of-home placement, and has completed a driver education course. The bill provides that the removal of the disability of nonage shall be accomplished by a court order, which the child must present when entering into a contract or agreement to obtain motor vehicle insurance.

The bill also adds consideration of removing the disability of nonage for insurance purposes to the activities that occur at the special judicial review held when a child becomes 17 years of age.

Driver Education Course

The bill requires secondary schools to provide preferential enrollment to a student in DCF custody for a course of study and instruction in safe and lawful operation of a motor vehicle, as long as the student maintains appropriate progress as required by the educational institution.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill provides \$800,000 in recurring funds from the General Revenue Fund to DCF to implement the bill. These funds may pay for licensure costs, reimbursement for insurance costs, and costs related to contracts with the not-for-profit organization responsible for administering the pilot program.

A. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

B. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

C. FISCAL COMMENTS:

None.