

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: SB 522

INTRODUCER: Senator Bean

SUBJECT: Incarcerated Parents

DATE: December 1, 2017

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|------------------|
| 1. | Preston | Hendon | CF | Favorable |
| 2. | _____ | _____ | JU | _____ |
| 3. | _____ | _____ | RC | _____ |

I. Summary:

SB 522 provides additional specificity to the case planning process when a parent of a dependent child is incarcerated or becomes incarcerated. The bill requires that:

- The Department of Children and Families (DCF or department) must include incarcerated parents in case planning and develop case plans that give some consideration to limitations posed by the correctional facility where the parent is incarcerated;
- The department must determine what services and resources may be available to incarcerated parents;
- Case plans must be amended if appropriate if parents become incarcerated or are released from incarceration; and
- Incarcerated parents are responsible for complying with case plan requirements and the requirements of their correctional facilities.

The bill is anticipated to have no fiscal impact on state or local government.

The bill has an effective date of July 1, 2018.

II. Present Situation:

Incarcerated Parents and Their Children

The disruption of family relationships when parents are incarcerated can have a serious impact on children. When children or youth are separated from their parents due to incarceration, possibly being coupled with out-of-home care, they may experience a variety of negative

outcomes. The children's caregivers during this time are also affected by the parental incarceration.¹

Although the number of children and youth placed in foster care as a result of their parent's incarceration is not clearly identified through current data collection systems, estimates suggest that tens of thousands of children in foster care may have incarcerated parents.

- More than half of all inmates have children and nine out of 10 incarcerated parents are fathers. Nearly half (48 percent) of parents incarcerated in prisons lived with their children one month prior to their arrests or incarceration. More than half (54 percent) of parents incarcerated in prisons reported providing the primary financial support for their children prior to their incarceration. On average, prison inmates are incarcerated for more than one year.²
- National data found that one in every three children who are subjects of maltreatment reports and are living at home have a primary caregiver who had been arrested at least once. While this does not indicate that the parent was incarcerated while the child was involved with the child welfare system, it highlights that there is a strong connection between the child welfare and criminal justice systems.³

Incarceration of a parent is not, in and of itself, sufficient grounds for the termination of parental rights. However, the incarceration of one or more parents can present significant challenges to the timely and appropriate permanency of children. Among these challenges are limited visitation schedules, communication restrictions, and a shortage of inmate support services. Current law provides circumstances under which an incarcerated parent's parental rights can be terminated.⁴

Case Plans

Most, if not all, of Florida's case plan requirements for children in the dependency system have originated from federal law. Since the passage of the Adoption Assistance and Child Welfare Act in 1980, federal law requires the development of a written case plan for any child receiving foster care maintenance payments under title IV-E.⁵ States require a case plan when a child welfare agency places a child in out-of-home care, including foster care, placement with a relative, group homes, and residential placement. Many states, including Florida, also require a case plan when a child and his or her family are receiving any kind of in-home services to prevent out-of-home placement.⁶

¹ Child Welfare Information Gateway. Child Welfare Practice With families affected by Parental Incarceration (October 2015), U.S. Department of Health and Human Services, Children's Bureau, *available at* https://www.childwelfare.gov/pubPDFs/parental_incarceration.pdf. (last visited November 25, 2017).

² *Id.*

³ *Id.*

⁴ Section 39.806, F.S.

⁵ P.L. 96-272 and the Adoption and Safe Families Act (ASFA) of 1997, P.L. 105-89.

⁶ Child Welfare Information Gateway. Case Planning for Families Involved With Child Welfare Agencies. (April 2014), U.S. Department of Health and Human Services, Children's Bureau, *available at* <https://www.childwelfare.gov/pubPDFs/caseplanning.pdf>. (last visited November 25, 2017).

Throughout the dependency process, the department must develop and update a case plan with input from all parties to the dependency case that details the problems being addressed as well as the goals, tasks, services, and responsibilities required to ameliorate the concerns of the state.⁷ The case plan follows the child from the provision of voluntary services through dependency, or termination of parental rights.⁸ Once a child is found dependent, the court reviews the case plan, and if accepted, orders the case plan to be followed.⁹ To support the permanency goal, the court continues to monitor a parent's efforts to comply with the tasks assigned in the case plan.

- Section 39.6011, F.S., specifies the development of the case plan and who must be involved, such as the parent, guardian ad litem, and if appropriate, the child. This section also specifies what must be in the case plan, such as descriptions of the identified problems, the permanency goal, timelines, and notice requirements.
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- Section 39.6012, F.S., details the types of tasks and services that must be provided to the parents as well as the type of care that must be provided to the child. The services must be designed to improve the conditions in the home, facilitate the child's safe return to the home, ensure proper care of the child, and facilitate permanency. The case plan must describe each task with which the parent must comply and the services provided that address the identified problem in the home and all available information that is relevant to the child's care.
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- Section 39.602, F.S., delineates the case planning process required when parents cannot or will not participate due to the physical, emotional, or mental condition or physical location of the parent. These case planning requirements currently include incarcerated parents.

The Department of Corrections

The Florida Department of Corrections (DOC) is the third largest state prison system in the country with approximately 98,000 inmates incarcerated. The DOC has 148 facilities statewide, and provides inmates with access to a range of educational and vocational services that may help an incarcerated parent meet select goals attached to his/her case plan. Among the relevant resources offered by the DOC are substance abuse treatment, anger management programs, and parenting classes. The DOC also provides high school diploma programs, literacy programs, and occupational training in fields such as carpentry, masonry, plumbing, and automotive technology. The DOC identifies which services are available at each facility in published annual reports and also on the department webpage for each facility.¹⁰

The Florida Department of Corrections (DOC) currently allows DCF staff access to inmates for relevant meetings and interviews. The DOC also contributes by approving transfers, when appropriate, for incarcerated parents to facilities which meet the inmate's programming needs; and by allowing incarcerated parents to have routine visits with their children, when appropriate.¹¹

⁷ Sections, 39.6011 and 39.6012, F.S.

⁸ Section 39.01(11), F.S.

⁹ Section 39.521, F.S.

¹⁰ Florida Department of Corrections, available at: <http://www.dc.state.fl.us/about.html>. (last visited November 25, 2017).

¹¹ Department of Corrections, Agency Legislative Bill Analysis, HB 281, November 1, 2017. HB 281 is identical to SB 522.

III. Effect of Proposed Changes:

Section 1 creates s. 39.6021, F.S., relating to case plan development involving an incarcerated parent. The bill provides additional specificity to the case planning process when a parent of a dependent child is incarcerated or becomes incarcerated. The bill requires that:

- The department must include incarcerated parents in case planning and develop case plans that give some consideration to limitations posed by the correctional facility where the parent is incarcerated;
- The department must determine what services and resources may be available to incarcerated parents;
- Case plans must be amended if appropriate if parents become incarcerated or are released from incarceration; and
- Incarcerated parents are responsible for complying with case plan requirements and the requirements of their correctional facilities.

Section 2 provides for an effective date of July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill will not likely have a fiscal impact to the state for several reasons. First, DCF currently includes incarcerated parents in case planning for dependent children. Second, the bill states that it is not the intent to require additional obligations to the Department of Corrections beyond what is currently provided to inmates who are parents. Services such as substance abuse treatment, anger management, and parenting classes are available to inmates, however; demand for these services exceeds their availability. For example,

during FY 2015-2016, 12,234 inmates received institutional-based substance abuse treatment, which only represents approximately 20% of the inmate population assessed as needing treatment.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The department is currently required to include incarcerated parents in the dependency case planning process. With the exception of specifically requiring the department to attach a list of services available at a correctional facility, all other provisions in the bill mirror provisions in current law.¹² The department is required to explain a parent's nonparticipation in case planning and that could include an explanation that services are unavailable at the parent's correctional facility.

VIII. Statutes Affected:

This bill creates s. 39.6021 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹² Section 39.602, F.S.