

**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.)

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Prepared By: The Professional Staff of the Committee on Judiciary

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BILL: CS/SB 590

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Garcia and others

SUBJECT: Child Welfare

DATE: February 6, 2018      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Preston</u>	<u>Hendon</u>	<u>CF</u>	<b>Fav/CS</b>
2.	<u>Tulloch</u>	<u>Cibula</u>	<u>JU</u>	<b>Favorable</b>
3.	_____	_____	<u>AHS</u>	_____
4.	_____	_____	<u>AP</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 590 makes a number of changes to the laws relating to relative and nonrelative caregivers for children in out-of-home foster care. The most significant changes required by the bill are as follows:

- Creation of s. 39.4015, F.S., implementing Family Finding Programs by the Department of Children and Families (DCF or the department), sheriffs' offices that conduct child protective investigations, or community-based care lead agencies to identify relatives that may become caregivers for children of family members placed in out-of-home care.
- Court determination at each judicial hearing throughout the dependency process that the DCF or other appropriate agency engaged in family finding.
- Renaming of the Relative Caregiver Program to the Kinship Care Program and recognition of "fictive kin," a person unrelated to a child by blood but who is so close to the child to be regarded as kin.
- Payments to relatives or qualifying nonrelatives are no longer delayed and begin when the child comes into a relative's or qualifying nonrelative's care at the current relative caregiver rate under s. 39.5085, F.S.
- Establishment of Kinship Navigator Programs by community-based care lead agencies to provide support and assistance to relative and nonrelative caregivers.

The bill also amends the Rilya Wilson Act, s. 39.604, F.S. as follows:

- To provide an alternative to fulltime enrollment in a childcare program for foster children under the age of three whose caregiver stays home all day or works less than fulltime.
- To require that children under age five who are victims of substantiated child abuse or neglect be referred for an early intervention assessment by Early Steps or Florida Diagnostic & Learning Resources System (FDLRS) Child Find as appropriate.
- To appoint a surrogate parent to made educational decisions if appropriate, and provides for educational stability and transitions.

The bill is expected to have both a negative and positive fiscal impact on state government.

Sections 1, 5, and 10 of the bill have an effective date of January 1, 2019, and the remainder of the bill has an effective date of July 1, 2018.

## II. Present Situation:

### Relative and Nonrelative Caregivers

When children cannot remain safely with their parents, placement with relatives is preferred over placement in foster care with nonrelatives. Caseworkers try to identify and locate a relative or relatives who can safely care for the children while parents receive services to help them address the issues that brought the children to the attention of child welfare. Placement with relatives—or kinship care—provides permanency for children and helps them maintain family connections. Kinship care is the raising of children by grandparents, other extended family members, and non-relative adults with whom they have a close, family-like relationship, such as godparents and close family friends.<sup>1</sup>

Kinship care may “be formal and involve a training and licensure process for the caregivers, monthly payments to help defray the costs of caring for the [child], and support services[.]”<sup>2</sup> Kinship care also may “be informal” and “involve only an assessment process to ensure the safety and suitability of the home along with supportive services for the child and caregivers.”<sup>3</sup> “Approximately one-fourth of [the] children in out-of-home care are living with relatives.”<sup>4</sup>

According to the National Conference of State Legislatures,

Nearly 3 million American children are cared for by relatives other than their parents. Child welfare agencies in many states rely on extended families,

<sup>1</sup> U.S. Department of Health & Human Services, Administration for Children & Families, Children’s Bureau, Child Welfare Information Gateway, *About Kinship Care*, <https://www.childwelfare.gov/topics/outofhome/kinship/about/> (last visited Feb. 4, 2018).

<sup>2</sup> JOHN MCCLENNEN, PHD, *SOCIAL WORK AND FAMILY VIOLENCE THEORIES, ASSESSMENT, AND INTERVENTION* at 88, (Springer Publishing Co., LLC, 2010), <https://books.google.com/books?id=nHHWSsUvXwwC&pg=PA88&lpg=PA88&dq=one-fourth+of+the+children+in+out-of-home+care+are+living+with+relatives&source=bl&ots=0w8X1YFtl0&sig=qdPfe5h2r0l8t3YR2zxN3rce5mQ&hl=en&sa=X&ved=0ahUKEwikze--io3ZAhWprFkKHV5wCJUQ6AEIPDAD#v=onepage&q=one-fourth%20of%20the%20children%20in%20out-of-home%20care%20are%20living%20with%20relatives&f=false> (last visited Feb. 4, 2018).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

primarily grandparents, to provide homes for children who cannot safely remain with their parents. In fact, relatives care for 27 percent of children in foster care—about 107,000—according to the Adoption and Foster Care Analysis and Reporting System.<sup>5</sup>

In Florida, a point in time count as of December 31, 2017, showed there were 24,069 children in out-of-home care. More than half of those children, 13,579, were placed with approved relatives and “fictive kin” non-relatives,<sup>6</sup> while 10,490 were placed in licensed foster care, group care, or in another placement.<sup>7</sup>

### **Relative Caregiver Program**

The Relative Caregiver Program was established in 1998<sup>8</sup> for the purpose of recognizing the importance of family relationships and providing additional placement options and incentives to help achieve permanency and stability for many children who are otherwise at risk of foster care placement. The program provides financial assistance to qualified relatives. Within available funding, the Relative Caregiver Program is also required to provide caregivers with family support and preservation services, school readiness assistance, and other available services in order to support the child’s safety, growth, and healthy development. Children living with caregivers who are receiving assistance under the program are also eligible for Medicaid coverage.<sup>9</sup>

In 2014,<sup>10</sup> the Legislature expanded the Relative Caregiver Program to include nonrelatives who a child may have a close relationship with who are not a blood relative or a relative by marriage. Those nonrelatives are eligible for financial assistance if they are able and willing to care for the child and provide a safe, stable home environment. The court must find that a proposed placement is in the best interest of the child.<sup>11</sup>

Under the Relative Caregiver Program, the statewide average monthly rate for children placed by the court with relatives or nonrelatives who are not licensed as foster homes may not exceed 82 percent of the statewide average foster care rate. Additionally, the cost of providing the assistance to any caregiver in the program may not exceed the cost of providing out-of-home care in emergency shelter or foster care.<sup>12</sup>

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<sup>5</sup> National Conference of State Legislatures, *Supporting Relative Caregivers of Children* (Feb. 13, 2017), <http://www.ncsl.org/research/human-services/relative-caregivers.aspx> (last visited Feb. 4, 2018).

<sup>6</sup> “Fictive kin” is defined by the bill in section 1 (s. 39.4015(2)(d)) as “an individual who is unrelated to the child by either birth or marriage, but has such a close emotional relationship with the child that he or she may be considered part of the family.”

<sup>7</sup> Florida Department of Children and Families, *Children in Out-of-Home Care – Statewide* (Jan. 10, 2018), <http://www.dcf.state.fl.us/programs/childwelfare/dashboard/c-in-ooh.shtml> (last visited Feb. 4, 2018).

<sup>8</sup> Ch. 1998-78, Laws of Fla.

<sup>9</sup> Section 39.5085, F.S.

<sup>10</sup> Ch. 2014-224, Laws of Fla.

<sup>11</sup> Section 39.5085(2)(a)3., F.S.

<sup>12</sup> Section 39.5085(2)(d), F.S.

**Financial Assistance**

The Relative Caregiver Program also provides monthly cash assistance to relatives who meet eligibility rules and have custody of a child under age 18 who has been adjudicated dependent by a Florida court and placed in their home by the Department of Children and Families Child Welfare/Community Based Care (CW/CBC) contracted provider.<sup>13</sup> As demonstrated by the charts below, the monthly cash assistance amount is higher than the Temporary Cash Assistance for one child, but less than the amount paid for a child in the foster care program.

Monthly cash assistance:

Age of Child	Relative and Nonrelative Caregivers <sup>14</sup>	Foster Parents <sup>15</sup>	Residential Group Home Placement <sup>16</sup>
Age 0 through 5 years	\$242	\$439	\$3,355 per month average <sup>17</sup>
Age 6 through 12 years	\$249	\$451	
Age 13 through 18 years	\$298	\$527	
<b>These are monthly benefit amounts per child</b>			

Temporary cash assistance for relative caregivers:

Number of Children	Monthly Benefit
1	\$180
2	\$241
3	\$303
<b>These are monthly benefit amounts per total number of children<sup>18</sup></b>	

Additionally, while reimbursement for children in foster care or in residential group homes begins at the time the child is placed, the monthly benefit payment for relative and nonrelative caregivers does not begin until the child has been adjudicated dependent.<sup>19</sup> Adjudication typically takes 2 months to a year. During this time, a nonrelative caregiver receives *no* benefit and a relative caregiver may be eligible only for temporary cash assistance if in close enough

<sup>13</sup> Section 39.5085, F.S.

<sup>14</sup> Fla. Admin. Code Ann. r. 65C-28.008 (2018). Department of Children and Families, *Temporary Cash Assistance Fact Sheet*, 5-6 (July 2012), <http://www.dcf.state.fl.us/programs/access/docs/tcafactsheet.pdf> (last visited Feb. 4, 2018).

<sup>15</sup> Office of Program Policy Analysis and Government Accountability, *Characteristics of Children in Foster Homes and Groups Homes*, 13 (Apr. 17, 2017) <http://www.oppaga.state.fl.us/monitordocs/Presentations/P17-18.pdf> (last visited Feb. 4, 2018).

<sup>16</sup> *Id.* at 15.

<sup>17</sup> *Id.* The average amount is derived from dividing the residential group care expenditures from 2014-2015, \$89,778,347, by the average number of children from 2014-2015, 2,230, which equals \$40,259.35 per child per year. This number was divided by 12 months to reach the monthly average per child.

<sup>18</sup> See *supra* n. 13 at 6 (reflecting a portion of the chart).

<sup>19</sup> Section 39.5085(2)(a), F.S. (providing that *dependent* children may be placed with a relative or nonrelative caregiver).

consanguinity to the child.<sup>20</sup> Once the child has been adjudicated dependent, the relative becomes eligible for the full Relative Caregiver Program benefit amount.<sup>21</sup>

### *Child Care Assistance*

The cost of participating in the school readiness program is subsidized in part or fully by the funding of the local early learning coalition for eligible children.<sup>22</sup> Criteria have been established for the children who are to receive priority for participating in the program at no cost or at a subsidized rate.<sup>23</sup> However, to the extent that subsidized childcare is not available, the cost of childcare is assumed by the caregiver.<sup>24</sup>

### **Additional Information**

Committee staff<sup>25</sup> conducted telephone/video conferences with dependency judges statewide who identified the following issues related to the use of relative caregivers for children placed in out-of-home care:

- **Unexpected caregiving responsibility** – Foster parents are licensed, trained, and expect to take children into their homes; whereas, relatives are more often than not asked to take in children of family members suddenly and without time or help for any preparation.
- **Lack of knowledge about trauma** – While foster parents receive training, relative caregivers do not typically know how to deal with the trauma to which the children may have been exposed.
- **Dysfunctional family dynamics** – Relatives have additional stress and issues due to the fact that they are caring for children of other family members.
- **Increased use of family finding in order to identify family members earlier in the process** – In circuits where it is used, family finding works well to identify more family members and identify them earlier in the process, either during investigations or at the shelter hearing. In some circuits, the use of family finding is sporadic and not utilized throughout the life of the dependency case. Parents are often embarrassed and do not want family members to know they are involved with the child welfare system. Older children who know who their relatives are often overlooked as a source of contact information.
- **Delays in process** – Delays in getting the results from home studies and fingerprint submissions is problematic. Also, delays in the Interstate Compact for the Placement of Children (ICPC) process, which establishes procedures for ensuring the safety and stability of placements of children across state lines, cause further delays in placing children with out of state relatives. Judicial decisions with interstate placement implications must comply with the Compact.

<sup>20</sup> See *supra* n. 14 at 4 (“A child must live in the home of a parent or a relative who is a blood relative of the child. The degree of relationship to the child can be no greater than first cousin once removed.”).

<sup>21</sup> See *supra* n. 13.

<sup>22</sup> Office of Early Learning, *School Readiness Payment Rates for Children Concurrently Enrolled in the VPK Program*, [http://www.floridaearlylearning.com/sites/www/Uploads/files/Oel%20Resources/Rules%20Guidance%20and%20Proposed%20Rules/Issued%20Program%20Guidance/440.50\\_ConcurrentPaymentRates\\_Final\\_ADA.pdf](http://www.floridaearlylearning.com/sites/www/Uploads/files/Oel%20Resources/Rules%20Guidance%20and%20Proposed%20Rules/Issued%20Program%20Guidance/440.50_ConcurrentPaymentRates_Final_ADA.pdf) (last visited Feb. 5, 2018).

<sup>23</sup> Office of Early Learning, *School Readiness Eligibility Priorities*, [http://www.floridaearlylearning.com/coalitions/school\\_readiness\\_eligibility\\_priorities.aspx](http://www.floridaearlylearning.com/coalitions/school_readiness_eligibility_priorities.aspx) (last visited Feb. 5, 2018).

<sup>24</sup> Fla. Admin. Code Ann. r. 65C-13.030(2)(d)4. (2014).

<sup>25</sup> Surveys and studies conducted by the staff of the Senate Committee on Children, Families and Elder Affairs.

- **Lack of services and support for families** – In some areas of the state, there is inadequate support for caregivers because there is no formal program to provide information, referral, training, legal services, and other follow-up services. As a result, grandparents and other relatives raising children are not being linked to the benefits and supports that they or the children in their care need.
- **Fewer benefits for children in care** – Children in out-of-home care are only eligible for some benefits if they are or have been in a licensed placement. For example, children in relative care are eligible for tuition and fee exemptions for postsecondary education,<sup>26</sup> but they are *not* typically eligible for independent living financial support and services.<sup>27</sup>
- **Caseworker “neglect”** –When a relative will not or cannot immediately commit to become a fulltime caregiver, the caseworker often forgets about the caregiver. There is little or no effort made to include the relative in other aspects of the child’s life or improve the home so that the relative may be able to become a fulltime caregiver.
- **Lack of time and skill to effectively engage with relatives** – A number of circuits reported that while caseworkers generally do a good job, they frequently do not have the time to effectively deal with relatives who may become caregivers for children due either to large caseloads or to a lack of appropriate skills. Caseworkers often feel that placement with a relative is a “safe placement” and pay less attention to those placements.
- **Access to services should be the same regardless of placement** – Currently, access to services and supports for a child in out-of-home care vary depending on what type of placement the child is in.

In addition to speaking with judges around the state, committee staff<sup>28</sup> spoke with leadership, program staff, and relative caregivers with community-based care lead agencies across the state. Four major issues affecting the ability of relatives and nonrelatives to care for children placed in their care were identified:

- Sporadic and ineffective use of family finding. Family finding is defined as an intensive relative search and engagement technique to identify family of and other close adults to children in foster care, who will be involved in developing and carrying out a plan for the emotional and legal permanency of a child
- Inadequate support of caregivers in some areas of the state due to a lack of formal kinship navigator programs designed to provide information, referral, and follow-up services. As a result, grandparents and other relatives raising children are not being linked to the benefits and supports that they or the children in their care need.
- Inadequate financial support or delays in receiving financial support.
- The obligation for relative caregivers to assume what may be a large portion of child care/early education expenses for a child in their care.

Notably, provisions of the bill address these four issues.

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<sup>26</sup> Section 1009.25, F.S.

<sup>27</sup> Section 409.1451, F.S.

<sup>28</sup> See *supra*, n. 25.

Circuit	Lead Agency
<i>Shaded rows indicate community-based care lead agencies with whom committee staff communicated.</i>	
1 Escambia, Okaloosa, Santa Rosa, and Walton Counties	Lakeview Center, Families First Network
2 & 14 Franklin, Gadsden, Jefferson, Leon, Liberty, Wakulla Counties and Bay, Calhoun, Gulf, Holmes, Jackson, Washington Counties	Big Bend Community Based Care, Inc.
3 & 8 Columbia, Dixie, Hamilton, Lafayette, Madison, Suwannee, Taylor Counties and Alachua, Baker, Bradford, Gilchrist, Levy, Union Counties	Partnership for Strong Families
4 Duval and Nassau Counties	Family Support Services of North Florida Inc.
4 Clay County	Kids First of Florida, Inc
7 St. Johns County	St Johns County Board of County Commissioners
7 Flagler, Volusia, and Putnam Counties	Community Partnership for Children, Inc
12 DeSoto, Manatee, and Sarasota Counties	Sarasota Family YMCA, Inc.
6 Pasco and Pinellas Counties	Eckerd Community Alternatives
13 Hillsborough County	Eckerd Community Alt.,
20 Charlotte, Collier, Glades, Hendry and Lee Counties	Children's Network of SW Florida
5 Citrus, Hernando, Lake, Marion and Sumter Counties	Kids Central, Inc
9 & 18 Orange, Osceola County and Seminole Counties	Community Based Care of Central Florida
18 Brevard County	Brevard Family Partnership
10 Hardee, Highlands, and Polk Counties	Heartland For Children
19 Indian River, Martin, Okeechobee, and St. Lucie Counties	Devereux CBC
15 & 17 Palm Beach County and Broward County	ChildNet Inc.
11 & 16 Miami-Dade County and Monroe County	Our Kids of Miami-Dade/Monroe, Inc

**Judicial Hearings and Review**

When the department removes a child from his or her home, a series of dependency court proceedings must occur to adjudicate the child dependent and place him or her in out-of-home care, as indicated by the chart below:

Proceeding		Reference
<b>Shelter Hearing</b>	A shelter hearing occurs within 24 hours after removal. The court determines whether the child is to remain in out-of-home care.	s. 39.402, F.S.
<b>Arraignment Hearing</b>	An arraignment hearing occurs within 28 days of the shelter hearing. This allows the parent to admit, deny, or consent to the allegations within the petition for dependency and allows the court to review any shelter placement.	s. 39.506, F.S.
<b>Adjudicatory Hearing</b>	An adjudicatory trial is held within 30 days of arraignment, to determine whether a child is dependent.	s. 39.507, F.S.
<b>Disposition Hearing</b>	Disposition occurs within 15 days of arraignment or 30 days of adjudication. The judge reviews and orders the case plan for the family and the appropriate placement of the child.	s. 39.521, F.S.
<b>Review Hearing</b>	The court must review the case plan and placement every 6 months, or upon motion of a party.	s. 39.701, F.S.

As noted above, current law provides for specific findings and determinations to be made by the court at each hearing.

### The Rilya Wilson Act

The Rilya Wilson Act is named for a four-year-old girl who disappeared from state custody and went unnoticed for 15 months. Rilya’s caregiver provided several stories concerning Rilya’s whereabouts, one being that someone from the Department of Children and Families removed Rilya from her home sometime in January 2001. However, the department was unaware that Rilya was missing until April 2002. While Rilya’s caregiver (who is suspected but not convicted of having killed Rilya) was sentenced to 55 years in prison in 2013 for offenses connected to Rilya’s disappearance (including aggravated child abuse), Rilya remains missing.<sup>29</sup>

With the disappearance of Rilya Wilson, the responsibility of the state to ensure the safety of children in its care received heightened attention. To ensure the safety and well-being of children in its custody or under its supervision, DCF was required to provide for more frequent and continuous face-to-face contact with children, particularly those under the age of five. The Rilya Wilson Act provides such increased visibility of these very young children by requiring that these children participate in an approved early education or childcare program. In turn, these early education or childcare programs are bound to report certain incidences of the child’s nonattendance or absence to DCF.<sup>30</sup>

<sup>29</sup> The Miami Herald, GERALYN GRAHAM GET 55 YEARS IN RILYA WILSON FOSTER CHILD ABUSE CASE, *available at*: <http://www.miamiherald.com/latest-news/article1947207.html>. (last visited Feb. 5, 2018).

<sup>30</sup> Section 39.604, F.S. (“Rilya Wilson Act”).



Participation in early childcare and learning programs under the Rilya Wilson Act is intended not only to minimize further abuse and neglect, but also to reverse the developmental effects that abuse, neglect, and abandonment can have on children.<sup>31</sup>

Early education and child care programs are provided in Florida through the school readiness program under ss. 1001.213 and 1002.82, F.S. With the establishment of the school readiness program, the different early education and child care programs and their funding sources were merged for the delivery of a comprehensive program of school readiness services to be designed and administered through local early learning coalitions.<sup>32</sup> The school readiness program is housed with the Office of Early Learning.<sup>33</sup>

Current law requires that each early learning coalition give priority for participation in the school readiness program according to specified criteria, with an at-risk child being second on the priority list.<sup>34</sup> An at-risk child is defined as meaning:<sup>35</sup>

- A child from a family under investigation by the Department of Children and Families or a designated sheriff's office for child abuse, neglect, abandonment, or exploitation.
- A child who is in a diversion program provided by the Department of Children and Families or its contracted provider and who is from a family that is actively participating and complying in department-prescribed activities, including education, health services, or work.
- A child from a family that is under supervision by the Department of Children and Families or a contracted service provider for abuse, neglect, abandonment, or exploitation.
- A child placed in court-ordered, long-term custody or under the guardianship of a relative or nonrelative after termination of supervision by the Department of Children and Families or its contracted provider.
- A child in the custody of a parent who is a victim of domestic violence residing in a certified domestic violence center.
- A child in the custody of a parent who is considered homeless as verified by a Department of Children and Families certified homeless shelter.

As mentioned earlier, the cost of participating in the school readiness program is subsidized in part or fully by the funding of the local early learning coalition for eligible children.<sup>36</sup> Criteria have been established for the children who are to receive priority for participating in the program at no cost or at a subsidized rate.<sup>37</sup> However, to the extent that subsidized childcare is not available, the cost of childcare is assumed by the caregiver.<sup>38</sup>

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<sup>31</sup> Section 39.604(2), F.S. (“The Legislature recognizes that children who are in the care of the state due to abuse, neglect, or abandonment are at increased risk of poor school performance and other behavioral and social problems. It is the intent of the Legislature that children who are currently in the care of the state be provided with an age-appropriate education program to help ameliorate the negative consequences of abuse, neglect, or abandonment.”).

<sup>32</sup> Sections 1002.82 and 1002.83, F.S.

<sup>33</sup> Section 1002.82, F.S.

<sup>34</sup> Section 1002.87, F.S.

<sup>35</sup> Section 1002.81, F.S.

<sup>36</sup> Office of Early Learning, *School Readiness Payment Rates for Children Concurrently Enrolled in the VPK Program*, [http://www.floridaearlylearning.com/sites/www/Uploads/files/Oel%20Resources/Rules%20Guidance%20and%20Proposed%20Rules/Issued%20Program%20Guidance/440.50\\_ConcurrentPaymentRates\\_Final\\_ADA.pdf](http://www.floridaearlylearning.com/sites/www/Uploads/files/Oel%20Resources/Rules%20Guidance%20and%20Proposed%20Rules/Issued%20Program%20Guidance/440.50_ConcurrentPaymentRates_Final_ADA.pdf) (last visited Feb. 5, 2018).

<sup>37</sup> Office of Early Learning, *School Readiness Eligibility Priorities*, [http://www.floridaearlylearning.com/coalitions/school\\_readiness\\_eligibility\\_priorities.aspx](http://www.floridaearlylearning.com/coalitions/school_readiness_eligibility_priorities.aspx) (last visited Feb. 5, 2018).

<sup>38</sup> Fla. Admin. Code Ann. r. 65C-13.030(2)(d)4. (2014).

Regardless of whether a school readiness program provider is licensed, the program must “comply with the reporting requirements of the Rilya Wilson Act for each at-risk child under the age of school entry who is enrolled in the school readiness program.”<sup>39</sup> Under the Rilya Wilson Act, children from birth to the age of school entry who are in the state’s care due to abuse, neglect, or abandonment and who are enrolled in an early education or child care programs must participate in the program 5 days a week.<sup>40</sup> This participation must be reflected in any case plan required by chapter 39, F.S., as well. However, the court in approving or revising the case plan may grant a waiver of the requirement to participate 5 days a week.<sup>41</sup>

The Rilya Wilson Act also provides that:

- Withdrawal from the program is prohibited unless prior written approval is provided by the department or the community-based lead agency.<sup>42</sup>
- The person with whom the child is living is required to report any absence to the program on the day of the absence. Failure to report an absence results in the absence being considered unexcused, and the early education or child care program is required to report any unexcused absence or seven consecutive excused absences to the department or community-based lead agency.<sup>43</sup>
- Reports of two consecutive unexcused absences or seven consecutive excused absences are to result in a site visit to the child’s residence. Children who are found missing during the site visit are to be reported as missing to law enforcement and the procedures for locating missing children initiated. If the children are not found to be missing, the parent or caregiver is to be informed that it is a violation of the case plan if the child does not attend the early education or child care program.<sup>44</sup>
- After two such site visits, action to notify the court of the parent or caregiver’s non-compliance with the care plan is to be initiated.<sup>45</sup>

### **Early Childhood Intervention for Developmental Disabilities**

Under federal law, the Child Abuse Prevention and Treatment Act (CAPTA)<sup>46</sup> and the Individuals with Disabilities Education Act (IDEA),<sup>47</sup> states are required to have provisions and procedures for the referral of children under the age of three to early intervention services who are: a) involved in substantiated cases of child abuse or neglect; or b) are affected by substance abuse or withdrawal symptoms from prenatal drug exposure. These are often called CAPTA referrals.<sup>48</sup>

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<sup>39</sup> Section 1002.87, F.S.

<sup>40</sup> Section 39.604(3), F.S.

<sup>41</sup> *Id.*

<sup>42</sup> Section 39.604(4)(a), F.S.

<sup>43</sup> Section 39.604(4)(b)1., F.S.

<sup>44</sup> Section 39.604(4)(b)2.-3., F.S.

<sup>45</sup> Section 39.604(4)(b)4., F.S.

<sup>46</sup> P.L. 108-36.

<sup>47</sup> P.L. 108-446.

<sup>48</sup> See generally Early Childhood Technical Assistance Center, *Early Identification: Referral Requirements under CAPTA and IDEA*, <http://ectacenter.org/topics/earlyid/capta.asp> (last visited Feb. 5, 2018).

In 2008, the DCF and the Early Steps Program<sup>49</sup> within Children's Medical Services at the Department of Health (DOH) entered into an interagency agreement for the purpose of ensuring that children under the age of three who are involved in substantiated cases of child abuse or neglect and are potentially eligible for early intervention services are referred to the local Early Steps office within their region.<sup>50</sup> The agreement describes referral procedures for early intervention services provided through Part C under IDEA<sup>51</sup> and provides that the local Early Steps will screen or evaluate all children referred by the DCF or its contracted agencies.<sup>52</sup>

Additionally, for purposes of identifying children involved in substantiated cases of child abuse or neglect who are potentially eligible for early intervention services, under federal law, IDEA, states are required to develop a comprehensive Child Find system.<sup>53</sup> In Florida, children from ages 3-5 suspected of having developmental delays are screened and provided services if necessary through the Florida Diagnostics and Learning Resources System (FDLRS) Child Find.<sup>54</sup>

### III. Effect of Proposed Changes:

**Section 1** creates s. 39.4015, F.S., relating to family finding, to require the department, in collaboration with sheriffs' offices that conduct child protective investigations and community-based care lead agencies, to develop a formal family finding program to be implemented statewide by child protective investigators and community-based care lead agencies. Family finding is required as soon as a child comes to the attention of the department and throughout the duration of the case. The department or community-based care lead agency must specifically document strategies taken to locate and engage relatives and kin. Strategies of engagement are provided in the bill.

The department and the community-based care lead agencies must use diligent efforts in family finding, must continue those efforts until multiple relatives and kin are identified, and must go beyond a basic computer search by exploring alternative tools and methodologies. Efforts to be used by the department and the community-based care lead agency are provided in the bill.

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<sup>49</sup> Florida Department of Health, *Early Steps, State Systemic Improvement Plan (SSIP)*,

[http://www.floridahealth.gov/programs-and-services/childrens-health/early-steps/documents/earlysteps\\_SSIPIInformationSheet.pdf](http://www.floridahealth.gov/programs-and-services/childrens-health/early-steps/documents/earlysteps_SSIPIInformationSheet.pdf) (last visited Feb. 5, 2018).

<sup>50</sup> Florida Department of Health, Children's Medical Services, *Interagency Agreement, The Florida Department of Children and Families and the Florida Department of Health, Children's Medical Services, Early Steps*,

[http://www.floridahealth.gov/alternatesites/cms-kids/home/resources/es\\_policy/Attachments/11\\_DOH\\_DCF\\_CAPTA\\_Agreement.pdf](http://www.floridahealth.gov/alternatesites/cms-kids/home/resources/es_policy/Attachments/11_DOH_DCF_CAPTA_Agreement.pdf). (last visited Feb. 5, 2018). The DOH reported that the only CAPTA referrals they receive from the department are for those children who are referred to a Child Protection Team. (Telephone conversation with DOH staff on November 15, 2017).

<sup>51</sup> Early Childhood Technical Assistance Center, *Early Identification: Part C Eligibility*, <http://ectacenter.org/topics/earlyvid/partcelig.asp> (last visited Feb. 5, 2018).

<sup>52</sup> See *supra* n. 49 at 5-6.

<sup>53</sup> 34 CRF s. 303.302; *Id.*, *Early Identification: Overview to Child Find Systems*, <http://ectacenter.org/topics/earlyvid/idoverview.asp> (last visited Feb. 5, 2018).

<sup>54</sup> The Florida Diagnostic and Learning Resources System (FDLRS), *Child Find*, <http://www.fdlrs.org/child-find.html> (last visited Feb. 5, 2018). FDLRS is a discretionary project of the Florida Department of Education (FLDOE) Bureau of Exceptional Education and Student Services. <http://www.fdlrs.org/aboutus.html> (last visited Feb. 5, 2018).

The court is required to inquire and make a determination regarding family finding at each stage of the case, including the shelter care hearing pursuant to s. 39.402. The court is to place its determinations on the record as to whether the department or community-based care lead agency has reasonably engaged in family finding. The level of reasonableness is to be determined by the length of the case and time the department or community-based care lead agency has had to begin or continue the process.

Section 1 is effective January 1, 2019.

**Section 2** amends s. 39.402, F.S., relating to placement in a shelter, to require educational records of children under the age of school entry to be provided, to require a judge rather than a school superintendent to appoint a surrogate parent for a child under the age of school entry if necessary, and to require the court to make a determination relating to family finding.

**Section 3** amends s. 39.506, F.S., relating to arraignment hearings, to require the court to make a determination relating to family finding.

**Section 4** amends s. 39.507, F.S., relating to adjudicatory hearings and orders of adjudication, to require the court to make a determination relating to family finding.

**Section 5** amends s. 39.5085, F.S., relating to the Kinship Care Program to provide that both relative and nonrelative caregivers receive financial assistance in the amount currently required for the Relative Caregiver Program with the payments to begin at the time a child comes into their care.

The bill also requires each community-based care lead agency to establish a kinship navigator program that must:

- Be coordinated with other state or local agencies that promote service coordination or provide information and referral services;
- Be planned and operated in consultation with kinship caregivers and organizations representing them, youth raised by kinship caregivers, relevant governmental agencies, and relevant community-based or faith-based organizations;
- Establish a toll-free telephone hotline to provide information to link kinship caregivers to specified entities;
- Provide outreach to kinship care families; and
- Promote partnerships between public and private agencies and relevant governmental agencies to increase their knowledge of the needs of kinship care families to promote better services for those families.

Section 5 is effective January 1, 2019.

**Section 6** amends s. 39.521, F.S., relating to disposition hearings and powers of disposition, to require the court to make a determination relating to family finding and to require educational records of children under the age of school entry to be provided.

**Section 7** amends s. 39.6012, F.S., relating to case plan tasks and services, to require documentation of case plan requirements under s. 39.604, F.S.

**Section 8** amends s. 39.604, F.S., relating to the Rilya Wilson Act, to clarify attendance and reporting requirements related to children in out-of-home care who are attending a child care or early education program, and to require that children under the age of three and children who are ages 3 to 5 years who are victims of substantiated child abuse or neglect to be referred for an early intervention assessment by Early Steps or FDLRS Child Find as appropriate.

The bill also provides for the appointment of a surrogate parent<sup>55</sup> if appropriate, and provides for educational stability and transitions.

**Section 9** amends s. 39.701, relating to judicial review, requiring the court to appoint a surrogate parent if the child is under the age of school entry, and requiring the court to determine if the department and community-based lead agency has reasonably engaged in family finding.

**Section 10** amends s. 414.045, F.S., relating to the cash assistance program, to conform a provision to changes made by the bill.

Section 10 is effective January 1, 2019.

**Section 11** amends s. 1009.25, F.S., relating to fee exemptions, to conform a provision to changes made by the bill.

**Section 12** provides that except as otherwise expressly provided in the bill, the effective date of the bill is 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.

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<sup>55</sup> Section 39.0016(1)(c), F.S. (A “surrogate parent” is “an individual appointed to act in the place of a parent in educational decisionmaking and in safeguarding a child’s rights under the Individuals with Disabilities Education Act [IDEA] and this section.”).

**B. Private Sector Impact:**

The Department reports that it currently has 19 contracts with the Community-based Care (CBC) Lead Agencies. To implement the family finder and kinship navigation programs required by the bill, the Department anticipates that each of the 19 contracts will need to add one staff member. The Department notes that one of the contracts (Eckerd Community Alternatives, Circuit 13) currently has a family finder position at a salary of \$52,000, including taxes and benefits. Multiplying this salary package, \$52,000, by the remaining number of CBC Lead Agencies, 18, the Department anticipates funding for 19 positions will total \$945,000.<sup>56</sup>

**C. Government Sector Impact:**

In the six counties where the Sheriff's office has an investigative unit, DCF estimates that those offices will need to hire six family finder positions. Using the \$52,000 salary package number above, DCF estimates funding for six new positions will be \$315,000.<sup>57</sup> DCF also estimates that funding for additional staff in its six regions will cost \$630,000.<sup>58</sup>

The Department also reports that the bill will increase the cost of relative and non-relative care giver payments by beginning payment at the time of the child's placement rather than delaying payment until the child is adjudicated dependent. DCF estimates the cost of these payments to increase to be \$3.6 million each year.<sup>59</sup> Additionally, DCF estimates a technology cost for issuing the additional payments at between \$384,696 and \$464,256.<sup>60</sup>

However, the cost of placing a child with a relative or non-relative care giver under the bill is between \$2,904 and \$3,576 per year per child (depending on the child's age), while placement in group care averages over \$40,000 per year per child. An increase in relative and non-relative care givers would lead to decreased expenditures on foster care and group care.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

The bill substantially amends ss. 39.402, 39.506, 39.507, 39.5085, 39.521, 39.6012, 39.604, 39.701, 414.045, and 1009.25 of the Florida Statutes.

<sup>56</sup> Department of Children and Families, *Senate Bill 590*, p. 8 (Oct. 24, 2017) (on file with the Senate Judiciary Committee).

<sup>57</sup> *Id.*

<sup>58</sup> *Id.* at p. 7.

<sup>59</sup> *Id.*

<sup>60</sup> *Id.* at p. 8.

The bill creates s. 39.4015 of the Florida Statutes.

**IX. Additional Information:**

**CS by Children, Families, and Elder affairs on December 4, 2017:**

- Amends ss. 39.402, 39.506, 39.507, 39.521, and 39.701, F.S., relating to judicial hearings, to require a determination by the court relating to family finding.
- Adds a task to the case plan requirements required under s. 39.604, F.S.
- Requires that children under the age of three and children ages 3 to 5 years who are victims of substantiated child abuse or neglect be referred for an early intervention assessment by Early Steps or FDLRS Child Find as appropriate.
- Provides for the appointment of a surrogate parent if appropriate, and provides for educational stability and transitions in child care and early education program settings.

**A. Amendments:**

None.

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

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