

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 590

INTRODUCER: Senator Garcia

SUBJECT: Kinship Care

DATE: December 1, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	Pre-meeting
2.			JU	
3.			AHS	

I. Summary:

SB 590 makes a number of changes to the laws relating to relative and nonrelative caregivers for children in out-of-home care.

The bill requires the Department of Children and Families, the sheriff's offices that conduct child protective investigations and each community-based care lead agency to establish family finding programs in order to identify relatives that may become caregivers for children of family members who are placed in out-of-home care.

The bill also requires payments at the current relative caregiver rate for both relatives and nonrelatives under s. 39.5085, F.S., to begin when the child comes into their care. It also requires each community-based care lead agency to establish a kinship navigator program to provide support and assistance to relative and nonrelative caregivers

The bill clarifies a provision in the Rilya Wilson Act, relating to enrollment requirement in childcare programs for children under school age who are in out-of-home care. Options to fulltime enrollment are provided for caregivers of children in out-of-home care who are under three years of age who stay at home all day or work less than fulltime.

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

Sections 1 and 2 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 adults with whom they have a close family-like relationship such as godparents and close family friends because biological parents are unable to do so for whatever reason.¹

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. 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. Approximately one-fourth of the children in out-of-home care are living with relatives.²

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

In Florida, a point in time count as of June 30, 2017, showed there were 24, 076 children in out-of-home care. Of those children, 13,622 were in kinship care foster care placements and 10,454 were in licensed foster care placements.⁴

Relative Caregiver Program

The Relative Caregiver Program was established in 1998⁵ 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

¹ U.S. Department of Health & Human Services, Administration for Children & Families, Children's Bureau, Child Welfare Information Gateway, *About Kinship Care*, available at: <https://www.childwelfare.gov/topics/outofhome/kinship/about/> (last visited October 24, 2017).

² *Id.*

³ National Conference of State Legislatures, Supporting Relative Caregivers of Children, available at <http://www.ncsl.org/research/human-services/relative-caregivers.aspx>. (last visited November 25, 2017).

⁴ Foster care includes all children who have been removed from their homes due to abuse, neglect or abandonment. Kinship foster care is a subset that includes children who are placed with relatives or other person(s) deemed to be a significant person in the child's life. Licensed foster care is a subset that includes traditional family foster homes, therapeutic foster homes, group homes, residential placements and other settings requiring a license.

⁵ Chapter 98-78, L.O.F.

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.⁶

In 2014,⁷ the legislature expanded the 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.⁸

Current law provides that 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, and 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.⁹

This program provides monthly cash assistance to relatives who meet eligibility rules and have custody of a child under age 18 who has been court ordered 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. 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.

Financial Assistance

Current financial assistance for types of out-of-home placements are shown in the chart below:

Age of Child	Relative and Nonrelative Caregivers	Foster Parents	Residential Group Home Placement
Age 0 through 5 years	\$242	\$429	\$3,800 per month average
Age 6 through 12 years	\$249	\$440	
Age 13 through 18 years	\$298	\$515	
These are monthly benefit amounts per child			

The monthly benefit payment for relative and nonrelative caregivers does not begin until the child in their care has been adjudicated dependent. Adjudication typically takes 2 months to a year. During this time a nonrelative caregiver receives no benefit and a relative caregiver is eligible for a temporary cash assistance payment as follows:

⁶ Section 39.5085, F.S.

⁷ Chapter 2014-224, L.O.F.

⁸ Section 39.5085, F.S.

⁹ *Id.*

Number of Children	Monthly Benefit
1	\$180
2	\$241
3	\$303
These are monthly benefit amounts per total number of children	

When the child in care has been adjudicated dependent, the relative becomes eligible for the full relative caregiver program benefit amount. Reimbursement for children in care with foster parents or in residential group homes begins at the time the child is placed.

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. 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. The cost of child care shall be assumed by the relative caregiver to the extent that subsidized child care is unavailable.¹⁰

Additional Information

Committee staff 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 don’t typically know how to deal with the trauma the children may have been exposed to.
- **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’s 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 use of family finding is sporadic and not utilized throughout the life of the dependency case. Parents are often embarrassed and don’t want family members to know they are involved with the child welfare system. Older children know who their relatives are and 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 delays in children being placed with out of state relatives. Judicial decisions with interstate placement implications must comply with the Compact.

¹⁰ Chapter 65C-13.030, L.O.F.

- **Lack of services and support for families** – Inadequate support of caregivers in some areas of the state due to a lack of formal programs designed to provide information, referral, training, legal services, and other follow-up services to grandparents and other relatives raising children to link them 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 education¹¹ but they are not typically eligible for independent living financial support and services.¹²
- **Caseworker “neglect”** – refers to the fact that when a relative will not or cannot immediately commit to becoming a fulltime caregiver, the caseworker forgets 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 due to large caseloads or have the appropriate skills to effectively deal with relatives who may become caregivers for children. Caseworkers often feel that placement with a relative is a “safe placement” and pay less attention to those placements.
- **Access to services should be same regardless of placement** – currently services and supports and access to them 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 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 which is defined as an intensive relative search and engagement techniques to identify family and other close adults for children in foster care, and to involve them 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 to grandparents and other relatives raising children to link them to the benefits and supports that they or the children in their care need.
- Inadequate financial support and delays in receiving that support.
- The obligation for relative caregivers to assume what may be a large portion of child care/early education expenses for the child in their care.

Provisions of the bill address these four issues.

¹¹ Section 1009.25, F.S.

¹² Section 409.1451, F.S.

Circuit	Lead Agency
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

Shaded rows indicate community-based care lead agencies that committee staff communicated with.

The Rilya Wilson Act

Rilya Wilson disappeared from state custody in January 2001. The child’s caregiver maintained that someone from the Department of Children and Families (DCF or department) removed Rilya from her home sometime in January 2001. The department was unaware that the child was

missing until April 2002 due to casework failures. While her caregiver was sentenced to 55 years in prison in 2013 for her disappearance, Rilya remains missing.¹³

With the disappearance of Rilya Wilson, the responsibility of the state to ensure the safety of the children while in the state's care received heightened attention. Frequent and continuous face-to-face contact with children who are in the custody or under the supervision of the state has been identified as a mechanism for ensuring the children's safety and well-being. The current requirement that each child in the custody or supervision of the state receive a monthly home visit offers child protection staff a regular opportunity to check on the well-being of the child.

For a number of children, the increased visibility that participation in early education and child care programs provides can minimize further abuse, neglect, or abandonment. Participation in these programs can also be an important ingredient in reversing the developmental effects that abuse, neglect, and abandonment can have on children. 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.¹⁴ The school readiness program is housed with the Office of Early Learning.

Historically, children who have been abused, neglected, or abandoned and are being served through the dependency system have received one of the highest priorities for child care service. This is due, at least in part, to the interpretation of earlier statutory language that these children were to be provided the highest priority. Current law requires each early learning coalition to give priority for participation in the school readiness program according to specified criteria with an at-risk child being second on the priority list.¹⁵ An at-risk child is defined as meaning:¹⁶

- 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.

¹³ 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 November 26, 2017).

¹⁴ Section 1002.83, F.S.

¹⁵ Section 1002.87, F.S.

¹⁶ Section 1002.81, F.S.

Notwithstanding s. 39.604, F.S., a school readiness program provider, regardless of whether the provider is licensed, shall 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.¹⁷

The cost of participating in the school readiness program is subsidized in part or fully by the funding of the coalition for eligible children. 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. The cost of child care shall be assumed by the licensed out-of-home caregiver to the extent that subsidized child care is unavailable.¹⁸

Currently, the Rilya Wilson Act which requires children from birth to the age of school entry who have been abused, neglected, or abandoned and who are enrolled in early education and child care programs as a result of being in the care of the state pursuant to ch. 39, F.S., to participate in the program 5 days a week. This participation must be reflected in the case plan required by ch. 39, F.S. The court in approving or revising the case plan may grant a waiver of the requirement to participate 5 days a week. The 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.
- 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.
- 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.
- 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.

Federal law under the Child Abuse Prevention and Treatment Act (CAPTA)¹⁹ and the Individuals with Disabilities Education Act (IDEA)²⁰ requires states to have provisions and procedures for the referral of children under the age of three who are involved in substantiated cases of child abuse or neglect or are affected by substance abuse or withdrawal symptoms from prenatal drug exposure to early intervention services. These are often called CAPTA referrals.

In 2008, the department and the Early Steps Program 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

¹⁷ Section 1002.87, F.S.

¹⁸ Chapter 65C-13.030, L.O.F.

¹⁹ P.L. 108-36.

²⁰ P.L. 108-446.

neglect and are potentially eligible for early intervention services are referred to the local Early Steps office within their region when warranted. The agreement describes referral procedures for early intervention services provided through Part C under IDEA and provides that the local Early Steps will screen or evaluate all children referred by the DCF or its contracted agencies.^{21,22}

Federal law under the IDEA also requires states to develop a comprehensive Child Find system to locate children who are potentially eligible for services, including children who are involved in substantiated cases of child abuse or neglect, and link them to early intervention services. In Florida, children from ages 3-5 suspected of having delays are screened and provided services if necessary through the Florida Diagnostics and Learning Resources System (FDLRS) Child Find.²³

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 basic searching tools 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.

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 2 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.

²¹ Interagency Agreement, The Florida Department of Children and Families and the Florida Department of Health, Children's Medical Services, Early Steps, available at: http://www.floridahealth.gov/alternatesites/cms-kids/home/resources/es_policy/Attachments/11_DOH_DCF_CAPTA_Agreement.pdf. (last visited November 8, 2017).

²² 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).

²³ The Florida Diagnostic and Learning Resources System (FDLRS) is a discretionary project of the Florida Department of Education (FLDOE) Bureau of Exceptional Education and Student Services.

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 3 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.

Section 4 amends s. 414.045, F.S., relating to the cash assistance program, to conform a provision to changes made by the bill.

Section 5 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.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill would increase some costs to the state and could result in a decrease in other costs. The bill will increase the cost of relative and non-relative care giver payments by beginning at placement rather than when the child is later adjudicated dependent. DCF estimates the cost of such increases to be \$3.6 million. Some community based care lead agencies may be required to improve their family finding efforts and their support of relative and non-relative care givers. Other community based care lead agencies are currently using these best practices. The result of these changes would be an increase in relative and non-relative caregiver placements. The cost of placing a child with a relative or non-relative care giver under the bill would be approximately \$2,904 per year while placement in group care averages \$45,625 per year. An increase in relative and non-relative care givers would lead to a decrease in expenditures on foster care and group care.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends ss. 39.5085, 39.604, and 414.045 of the Florida Statutes. The bill creates s. 39.4015 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.