

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/CS/HB 61 Adoption Benefits

SPONSOR(S): Health & Human Services Committee and Children, Families & Seniors Subcommittee, Roth and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 136

FINAL HOUSE FLOOR ACTION: 118 Y's 0 N's **GOVERNOR'S ACTION:** Approved

SUMMARY ANALYSIS

CS/CS/HB 61 passed the House on January 22, 2020, and subsequently passed the Senate on February 26, 2020.

In Florida, the Department of Children and Families (DCF) provides child welfare services, including adoption services, through community-based care lead agencies contracted by DCF.

Adoption is a method of achieving permanency for children who have suffered abuse, neglect, or abandonment and who are unable to be reunified with their parents. In 2015, the Legislature reestablished an adoption benefit program administered by DCF for state employees who adopt children from the foster care system. Qualifying adoptive employees receive a one-time benefit of \$10,000 for the adoption of a child with special needs and \$5,000 for the adoption of a child who does not have such needs. The program currently has a \$2,750,000 recurring general revenue appropriation. Funding is accessed on a first come, first serve basis; 225 employees received the adoption benefit in FY 2018-19.

Eligible employees who may receive an adoption benefit include non-temporary employees, either full- or part-time, of a state agency, which is defined to also include school districts, state universities and colleges, and water management districts, among others.

CS/CS/HB 61 extends this benefit to other-personal-services (temporary) employees who have been employed full- or part- time by a state agency for one year; and veterans or servicemembers domiciled within Florida, regardless of whether employed by the state.

The bill has no fiscal impact on state or local governments.

The bill was approved by the Governor on June 9, 2020, ch. 2020-22, L.O.F., and will become effective on July 1, 2020.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Background

Child Welfare System Adoptions

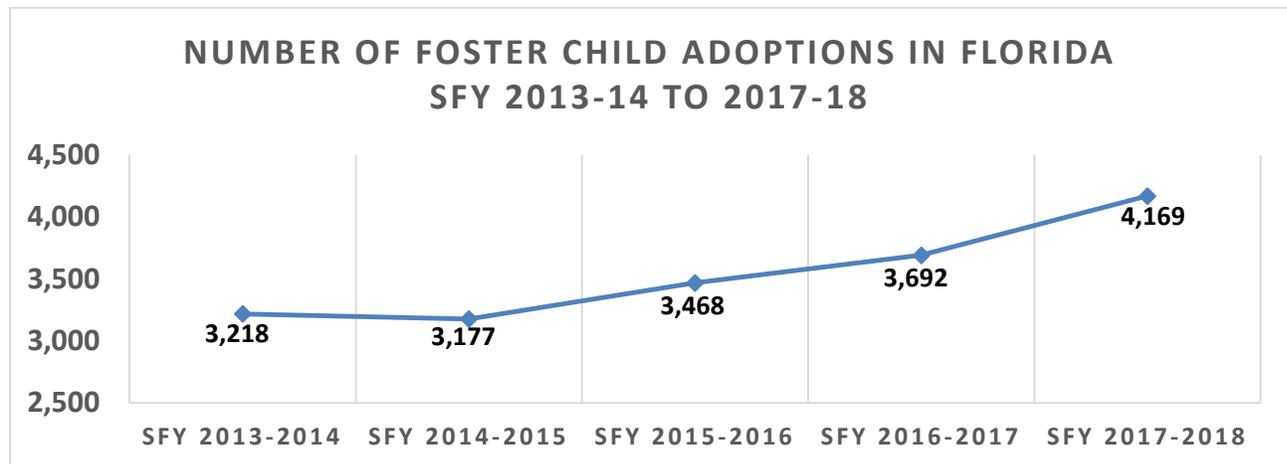
In Florida, the Department of Children and Families (DCF) provides child welfare services.¹ Statute requires child welfare services, including adoption services, to be delivered through community-based care (CBC) lead agencies contracted by DCF.² For example, CBCs provide pre- and post-adoption services and administer maintenance adoption subsidies which provide ongoing financial support for children adopted from the foster care system.

Adoption is a method of achieving permanency for children who have suffered abuse, neglect, or abandonment and who are unable to be reunited with their parents. Research indicates that children generally have better outcomes through adoption than through placement in long-term foster care.³

To become a licensed adoptive parent, an individual or couple must complete a licensing class and a homestudy.⁴ The typical timeframe is less than nine months for the entire process. There is little to no cost to adopt a child from the child welfare system through a CBC.⁵ The required adoptive parent training class and homestudy are provided to adoptive parents free of charge, and court costs and fees can be paid by DCF if the family cannot afford them.⁶

Florida Foster Care Adoptions

During FY 2017-18, 4,169 adoptions of children within the child welfare system were finalized in Florida.⁷ Over the last five state fiscal years, the number of finalized adoptions gradually increased.⁸



¹ S. 20.19(4)(a)3, F.S.

² S. 409.986(1), F.S.

³ Evan B. Donaldson Adoption Institute, *Keeping the Promise: Critical Need for Post-Adoption Services to Enable Children and Families to Succeed*, Oct. 2010, p. 8.

⁴ Department of Children and Families, *How Do I Become a Foster Parent?*, <https://www.myflfamilies.com/service-programs/foster-care/how-do-i.shtml> (last visited Oct. 22, 2019).

⁵ Department of Children and Families, *Frequently Asked Questions*, <http://www.adoptflorida.org/faq.shtml> (last visited Oct. 22, 2019).

⁶ See Department of Children and Families, *Benefits of Adopting Florida's Children*, <http://www.adoptflorida.org/benefits.shtml> (last visited Jan. 1, 2020).

⁷ Department of Children and Families, *Adoption Incentive Annual Report*, <https://www.myflfamilies.com/service-programs/child-welfare/docs/2018LMRs/Adoption%20Incentive%20Annual%20Report%20with%20Appendices.pdf> (last visited Sept. 30, 2019).

⁸ Id.

Currently, there are approximately 19,000 children in foster care.⁹ As of October 2019, DCF reported there were 8,417 children available for adoption.¹⁰ Older children (especially teenagers) and sibling groups are likely to wait the longest for an adoptive family.

State Employee Adoption Benefit

In 2000, Florida established an adoption benefit to state employees. The program provided a one-time cash benefit to an employee of the state or a water management district who adopted a child. Qualifying employees adopting a child defined as “special-needs” under s. 409.166, F.S., were eligible to receive a monetary benefit of \$10,000 per child; qualifying employees adopting a child other than a “special-needs” child were eligible to receive a monetary benefit in the amount of \$5,000 per child.¹¹ This program also authorized the benefit for private and foreign adoptions.

The law was amended in 2001 to restrict the program to adoptions from the foster care system.¹² The Legislature expanded the benefit program in 2007 to include county school district employees, community college and university employees, and instructional personnel employed by the Florida School for the Deaf and the Blind as employees eligible to receive the benefit. The Legislature also transferred the program from the Department of Management Services to DCF.¹³ The program ended in 2010 when the statute was repealed and the funding discontinued.¹⁴

In 2015, the Legislature reestablished the adoption benefit program for state employees who adopt a child from the foster care system. Adoptive employees may receive a one-time benefit of \$10,000 for a child with special needs and \$5,000 for the adoption of a child without such needs.¹⁵

For purposes of the adoption benefit program, a “special-needs” child is:

- A child whose permanent custody has been awarded to DCF or to a licensed child-placing agency; and
- Who has established significant emotional ties with his or her foster parents or is not likely to be adopted because he or she is:
 - Eight years of age or older;
 - Developmentally disabled;
 - Physically or emotionally handicapped;
 - Of black or racially mixed parentage; or
 - A member of a sibling group of any age, provided two or more members of a sibling group remain together for purposes of adoption; and
- For whom a reasonable but unsuccessful effort has been made to place the child without providing a maintenance subsidy, except when the child is being adopted by the child’s foster parents or relative caregivers.¹⁶

In order for an adoptive parent to qualify for the adoption benefit program for state employees, he or she must meet the statutory requirements at the time the adoption takes place. Qualifying adoptive employees include regular employees, either full- or part-time, of¹⁷:

⁹ AdoptUSKids, *Florida Foster Care and Adoption Guidelines*, <https://www.adoptuskids.org/adoption-and-foster-care/how-to-adopt-and-foster/state-information/florida#children> (last visited Sep. 30, 2018).

¹⁰ Email from John Paul Fiore, Legislative Specialist, Department of Children and Families, RE: Information request (Oct. 10, 2019), on file with Children, Families, and Seniors Subcommittee staff.

¹¹ S. 110.152, F.S. (2000)

¹² S. 110.152, F.S. (2001)

¹³ S. 409.1663, F.S. (2007)

¹⁴ Ch. 2010-152, L.O.F.; *See also*, 2010, HB 5001, General Appropriations Act.

¹⁵ S. 409.1664, F.S.

¹⁶ S. 409.166(2), F.S.

¹⁷ S. 409.1664, F.S.

- A branch, department, or agency of state government for which the Chief Financial Officer processes payroll requisitions¹⁸;
- A state university or Florida College System institution as defined in s. 1000.21, F.S.;
- A school district unit as defined in s. 1001.30, F.S.;
- A water management district as defined in s. 373.019, F.S.;
- A charter school established under s. 1002.33, F.S.;
- The Florida Virtual School established under s. 1002.37, F.S.; or
- The Florida School for the Deaf and the Blind, if instructional personnel.¹⁹

Temporary, or other-personal-service, employees are not eligible for the adoption benefit.

In September 2019, the Chief Financial Officer processed payroll requisitions for 109,685 permanent state employees (including all employees²⁰ for the School of the Deaf and the Blind).²¹ In addition, as of the Fall 2019 semester, there are approximately 48,855 State University System employees and approximately 46,326 Florida College System employees.²² As of FY 2018-19, there were approximately 337,792 full-time school district employees in Florida.²³

Adoption benefits are awarded on a first-come, first-served, basis, limited by the annual appropriation. Currently, the adoption benefit program has a \$2,750,000 recurring general revenue appropriation. In prior years, but not in FY 2019-20, the General Appropriations Act has authorized DCF to carry-forward any unspent funds at the end of the fiscal year to the next fiscal year.²⁴ In FY 2018-19, for example, the base appropriation for program was \$2,750,000; however, DCF had \$300,000 of unspent funds from the prior fiscal year. Therefore, \$3,050,000 was available to reward 225 qualifying adoptive employees with an adoption benefit.²⁵

¹⁸ These include the Legislature, Justice Administrative Commission, State Courts System, Governor's Office, Department of Lottery, Department of Environmental Protection, Department of Economic Opportunity, Department of Legal Affairs, Department of Agriculture & Consumer Services, Department of Financial Services, Department of State, Department of Education, Florida School for the Deaf and the Blind, Department of Veterans' Affairs, Department of Transportation, Department of Citrus, Department of Children and Families, Public Service Commission, Department of Military Affairs, Department of Health, Department of Elder Affairs, Agency for Persons with Disabilities, Agency for Health Care Administration, Department of Corrections, Department of Law Enforcement, Department of Management Services, Division of Administrative Hearings, Department of Revenue, Department of Highway Safety and Motor Vehicles, Florida Fish & Wildlife Commission, Florida Commission on Offender Review, Department of Business & Professional Regulation, and Department of Juvenile Justice. This total includes 8,725 OPS employees. Email from Meredith Stanfield, Director of Legislative and Cabinet Affairs, Office of Chief Financial Officer, RE: Bill analysis and information request (Oct. 9, 2019), on file with Children, Families, and Seniors Subcommittee staff.

¹⁹ "Instructional personal," as defined in s. 1012.01(1), F.S., means any K-12 staff member whose function includes the provision of direct instructional services to students and whose functions provide direct support in the learning process of students.

²⁰ This includes non-instructional employees for the School of the Deaf and the Blind, who are not eligible for the adoption incentive benefit.

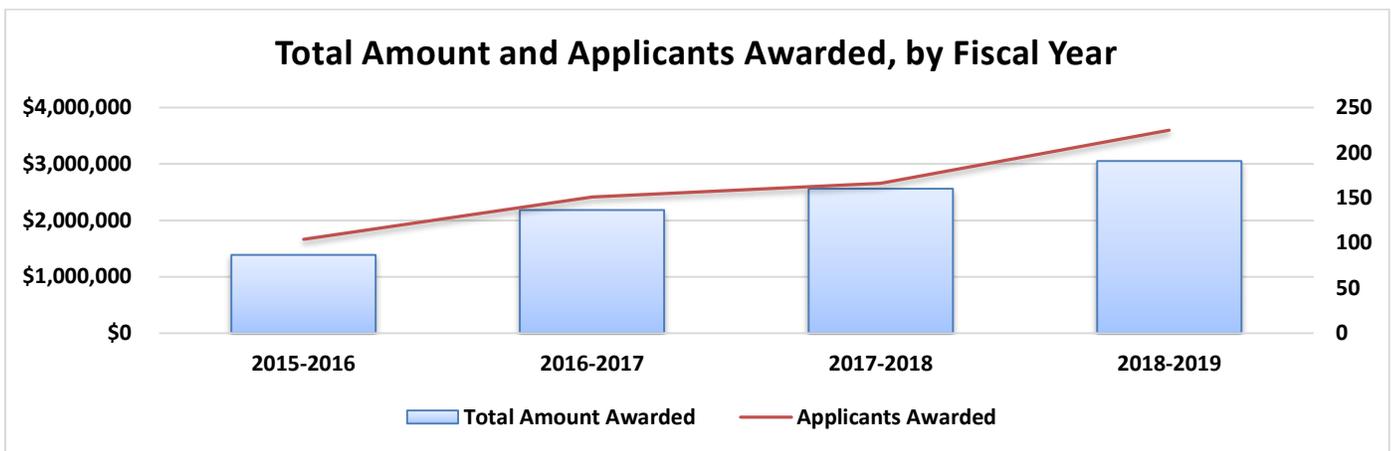
²¹ Email from Meredith Stanfield, Director of Legislative and Cabinet Affairs, Office of Chief Financial Officer, RE: Bill analysis and information request (Oct. 9, 2019), on file with Children, Families, and Seniors Subcommittee staff.

²² Florida Department of Education, *The Fact Book: Report for the Florida College System*, 2017, table 6.3T, <http://www.fldoe.org/accountability/data-sys/CCTCMIS/reports.shtml> (last visited Oct. 22, 2019). Note that this figure includes temporary employees.

²³ Florida Department of Education, *Staff in Florida's Public Schools*, <http://www.fldoe.org/accountability/data-sys/edu-info-accountability-services/pk-12-public-school-data-pubs-reports/staff.shtml> (last visited Oct. 22, 2019).

²⁴ 2019, HB 5001, General Appropriations Act. *Contra*, 2018, HB 5100, General Appropriations Act, Section 38, authorizing the unexpended balance of funds provided to DCF for adoption incentive benefits to revert and appropriate to DCF for FY 2018-19 for the same purpose.

²⁵ *Supra*, note 9.



Other Personal Services Employees

Other Personal Services (OPS) employment is a temporary employment with the State of Florida used solely for accomplishing short term or intermittent tasks.²⁶ Unless specifically provided by law, OPS employees are not eligible for any form of paid leave, paid holiday, a paid personal day or retirement benefits. Full-time OPS employees are eligible for state group health insurance.

An agency may employ any qualified individual in an OPS position; however, the agency must:

- Maintain employee records identifying the person employed, the hire date, the type of OPS employment, and the number of hours worked;
- Determine the appropriate rate of pay and ensure the payments are in compliance with the federal Fair Labor Standards Act and state law; and
- Review, determine, and document by June 30 of each year whether the continuation of each OPS employment position is necessary to the mission of the agency.²⁷

As of September 2019, the Department of Financial Services processed payroll for 8,725 OPS state employees.²⁸

Veteran and Servicemember Adoption Benefits

A veteran is a person who served in the active military, naval, or air service and who was discharged or released under honorable conditions only or who later received an upgraded discharge under honorable conditions, notwithstanding any action by the United States Department of Veteran Affairs (VA) on individuals discharged or released with other than honorable discharges.²⁹

In 2017, the VA estimated there were 20 million veterans living in the United States.³⁰ During that year, Florida had the third largest veteran population in the nation with approximately 1,525,400 veterans living in the state.³¹

A servicemember is any person serving as a member of the United States Armed forces³² on active

²⁶ R.60L-33.005, F.A.C.

²⁷ S. 110.131(2), F.S.

²⁸ *Supra*, note 17.

²⁹ S. 1.01(14), F.S.

³⁰ Florida Department of Veterans Affairs, *Fast Facts*, <http://floridavets.org/our-veterans/profilefast-facts/> (last visited Oct. 22, 2019).

³¹ *Id.*

³² The United States Armed Forces consists of the Army, Marine Corps, Navy, Air Force, and Coast Guard.

duty or state active duty³³ and all members of the Florida National Guard and United States Reserve Forces.³⁴

As of June 2019, there were 64,915 Floridians serving in the United States Armed Forces and 37,003 serving in Florida's National Guard and United States Reserve Forces.³⁵

Currently, the federal government reimburses eligible servicemembers on active duty a maximum of \$2,000 per child for qualifying expenses related to the adoption of children under age 18, up to a maximum of \$5,000 per calendar year for multiple adoptions. The benefit is not limited to adoptions from state child welfare systems; however, the adoptions must be arranged by qualified adoption agencies. Qualifying expenses include:

- Public and private agency fees including fees charged by an agency in a foreign country.
- Placement fees, including fees charged adoptive parents for counseling.
- Legal fees, including court costs, for services that not available from military legal assistance or notary offices.
- Medical expenses, including:
 - Hospital expenses of the biological mother of the child to be adopted.
 - Hospital expenses of a newborn infant to be adopted.
 - Medical care given to the adopted child before the adoption.
 - Physical examinations of the biological mother of the child to be adopted.
- Temporary foster care charges when payment of such charges is required to be made before the adoptive child's placement.³⁶

Veterans with a service-connected disability that results in infertility are also eligible for similar adoption benefits.³⁷

However, as there is little to no cost³⁸ to adopt children through the DCF child welfare system, servicemembers and veterans would likely incur minimal qualifying expenses, if any, for the adoption of a child within the child welfare system.

Effect of the Bill

The bill amends current law to make OPS employees eligible for the adoption benefit. Such OPS employees must have been employed full- or part-time by a state agency for one year. This will allow OPS employees to qualify to receive the adoption benefit when adopting a child from the child welfare system, provided funds are available and other requirements of rule and law are met.

³³ "State active duty" means full-time duty in active military service of the State of Florida when ordered by the Governor or Adjutant General to preserve the public peace, execute the laws of the state, suppress insurrection, repel invasion, enhance security and respond to terrorist threats or attacks, respond to an emergency, enforce the law, carry out counter-drug operations, provide training, provide for the security of the rights or lives of the public, protect property, or conduct ceremonies. The term also includes the period during which a person in active military service is absent from duty as a result of illness, being wounded, being on leave, or other lawful cause.

³⁴ S. 250.01, F.S.

³⁵ Defense Manpower Data Center, *DOD Personnel, Workforce Reports & Publications*, https://www.dmdc.osd.mil/appj/dwp/dwp_reports.jsp (last visited Oct. 22, 2019).

³⁶ U.S. Army, *My Army Benefits—Adoption Assistance*. <https://myarmybenefits.us.army.mil/Benefit-Library/Federal-Benefits/Adoption-Assistance?serv=122> (last visited Oct. 19, 2019).

³⁷ U.S. Department of Veterans' Affairs, *VAntage Point—VA Now Offers Adoption Reimbursement*. <https://www.blogs.va.gov/VAntage/47109/va-now-offers-adoption-reimbursement/> (last visited Oct. 19, 2019).

³⁸ The required adoptive parent training class and home study are provided to adoptive parents free of charge, and court costs and fees can be paid by DCF if the family cannot afford them. See Department of Children and Families, *Benefits of Adopting Florida's Children*, <http://www.adoptflorida.org/benefits.shtml> (last visited Jan. 1, 2020).

Additionally, the bill also makes veterans and servicemembers domiciled in the state who adopt a child within the child welfare system on or after July 1, 2020, eligible for the adoption benefit, regardless of whether the veteran or servicemember is a qualifying adoptive employee.

By expanding eligibility to OPS employees, veterans and servicemembers, 1,636,043 additional persons may potentially apply for the adoption benefit. Eligible OPS employees, veterans, and servicemembers meeting the requirements of the section will receive a monetary benefit of either \$5,000 or \$10,000 on a first-come-first serve basis. Section 409.1664(2)(c), F.S., limits adoption benefit awards to those funds specifically designated for that purpose; therefore, while more individuals may be eligible, the number of actual recipients will be limited to the availability of funding.

The bill will take effect July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The payment of adoption benefits available under s. 409.1664, F.S., is subject to the availability of funds through a specific appropriation. While additional individuals are eligible to apply for benefits, the expenditure is capped, so the bill will have no fiscal impact on the state. The FY 2020-21 base appropriation for this program is \$2,750,000.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

In FY 2018-19 the adoption benefit program received a base appropriation of \$2,750,000 plus \$300,000 in funding reappropriated from the prior fiscal year. Therefore, \$3,050,000 was available for DCF to award 225 individuals with an adoption benefit. Between FY 2015-16 and FY 2018-19, approximately 56 percent of the base appropriation was disbursed within the respective fiscal year, with authority in the General Appropriations Act (GAA) that allowed for the carry-forward of unused funding to the subsequent fiscal year. For FY 2019-20, the program received a base appropriation of \$2,750,000; however, the GAA did not include the carry-forward authority. Therefore, any unspent funds on June 30, 2020, will revert back to General Revenue and will be available for any purpose.