

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 Fiscal Policy

BILL: CS/SB 204

INTRODUCER: Committee on Fiscal Policy; Senators Rouson and Garcia

SUBJECT: Task Force on the Monitoring of Children in Out-of-Home Care

DATE: March 9, 2023 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Tuszynski</u>	<u>Cox</u>	<u>CF</u>	Favorable
2.	<u>Tuszynski</u>	<u>Yeatman</u>	<u>FP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 204 creates the Task Force on the Monitoring of Children in Out-of-Home Care adjunct to the Florida Department of Law Enforcement (FDLE), with the FDLE providing administrative support for the Task Force. The Task Force is required to identify and counter the root causes of why children go missing while in out-of-home care and to ensure that prompt and effective action is taken to address such causes. The Task Force must examine and recommend improvements to current policies, procedures, programs, and initiatives to prevent children from going missing while in out-of-home care and to ensure that timely and comprehensive steps are taken to find children who are missing for any reason, including, but not limited to, running away, human trafficking, and abduction by or absconding with a parent or an individual who does not have care or custody of the child.

The Task Force is to be composed of 13 members, including, but not limited to, a member of the Senate, a member of the House of Representatives, and representatives from the FDLE, the Guardian ad Litem program, and the community-based care lead agencies (CBCs), a licensed foster parent, and a young adult who has aged out of the foster care system. Dates are specified for member appointments and the initial meeting of the Task Force.

The bill requires the Department of Children and Families (DCF or department) to submit monthly reports through October, 2024, to assist the Task Force in fulfilling its duties and requires the Florida Institute for Child Welfare to conduct focus groups or individual interviews with children in out-of-home care and young adults who have aged out of the foster care system

to examine why children leave their out-of-home placements and how to prevent them from leaving.

The bill requires the Task Force to submit a report with findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 1, 2024.

The bill includes a date for repeal of the Task Force on June 30, 2025, unless reviewed and saved from repeal by the Legislature.

The bill is anticipated to have a significant negative fiscal impact on the FDLE. *See* Section V. Fiscal Impact Statement.

The bill has an effective date of July 1, 2023.

II. Present Situation:

Out-of-home Care

Current law requires any person who knows or suspects that a child has been abused, abandoned, or neglected to report such knowledge or suspicion to the Florida central abuse hotline (hotline).¹ A child protective investigation begins if the hotline determines the allegations meet the statutory definition of abuse,² abandonment,³ or neglect.⁴ A child protective investigator (CPI) investigates the situation either immediately, or within 24 hours after the report is received, depending on the nature of the allegation.⁵

After conducting an investigation, if the CPI determines that the child is in need of protection and supervision that necessitates removal, the investigator may initiate formal proceedings to

¹ Section 39.201(1), F.S.

² Section 39.01(2), F.S. The term “abuse” means any willful act or threatened act that results in any physical, mental, or sexual abuse, injury, or harm that causes or is likely to cause the child’s physical, mental, or emotional health to be significantly impaired. Abuse of a child includes the birth of a new child into a family during the course of an open dependency case when the parent or caregiver has been determined to lack the protective capacity to safely care for the children in the home and has not substantially complied with the case plan towards successful reunification or met the conditions for return of the children into the home. Abuse of a child includes acts or omissions. Corporal discipline of a child by a parent or legal custodian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child.

³ Section 39.01(1), F.S. The term “abandoned” or “abandonment” means a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the caregiver, while being able, has made no significant contribution to the child’s care and maintenance or has failed to establish or maintain a substantial and positive relationship with the child, or both.

⁴ Sections 39.01(50) and 39.201(2)(a), F.S. “Neglect” occurs when a child is deprived of, or is allowed to be deprived of, necessary food, clothing, shelter, or medical treatment or a child is permitted to live in an environment when such deprivation or environment causes the child’s physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired. The foregoing circumstances shall not be considered neglect if caused primarily by financial inability unless actual services for relief have been offered to and rejected by such person. A parent or legal custodian legitimately practicing religious beliefs in accordance with a recognized church or religious organization who thereby does not provide specific medical treatment for a child may not, for that reason alone, be considered a negligent parent or legal custodian; however, such an exception does not preclude a court from ordering necessary services.

⁵ Section 39.101(2), F.S.

remove the child from his or her home. When the DCF removes a child from the home, known as out-of-home care, a series of dependency court proceedings must occur before a child may be adjudicated dependent.⁶

When children cannot safely remain at home with parents, Florida's child welfare system finds safe out-of-home placements for such children. After an assessment to determine the most appropriate out-of-home placement, a child may be placed with a relative, fictive kin, licensed foster parent, in a group home or residential setting.⁷ While in out-of-home care, the child and his or her parents receive services to address problems that led to the removal so that reunification or other permanency option may be reached as quickly as possible.⁸

Once removed, the shelter and daily care for the child are provided by foster or kinship families or group home staff. These caregivers undergo an assessment and licensing or certification process to ensure their suitability as caregivers. While in out-of-home care, services are provided to the child and his or her parents to help improve the problems that led to the removal so that reunification or other permanency options may be reached as quickly as possible.⁹

Missing Children in DCF Custody

In the wake of the disappearance of Rilya Wilson,¹⁰ the Executive Office of Governor Jeb Bush, the DCF, and the Florida Department of Law Enforcement (FDLE) teamed up to locate 393 missing children who were in the DCF's custody.¹¹ This multi-agency statewide effort (Operation SafeKids) created seven Regional Child Location Strike Forces in each of the FDLE's seven regions. The results of the Operation included:

- 292 children, or 75 percent, were located or cases were closed.
- 13 children, or 3 percent, were no longer in the DCF's custody due to age but still had active cases with law enforcement.
- 88 children, or 22 percent, were not located and remained under active investigation by the local law enforcement and the DCF. Of these, 20 were included in the Endangered/Parental Abduction/Involuntary group, and 68 were included in the Runaway group.¹²

⁶ See s. 39.01(14), F.S., for the definition of "child who is found to be dependent".

⁷ Rule 65C-28.004, F.A.C.

⁸ Child Welfare Information Gateway, *Out-of-Home Care Overview*, available at <https://www.childwelfare.gov/topics/outofhome/overview/#:~:text=Out%2Dof%2Dhome%20care%20is,to%20abuse%20and%20neglect> (last visited February 5, 2023).

⁹ *Id.*

¹⁰ Four-year old Rilya Wilson went missing while in DCF's custody after the termination of her mother's parental rights. The DCF did not discover her disappearance until two years later, when she was not found living at the home of her caregiver. In response, Florida created the Rilya Wilson Act (Section 39.604, F.S.), that requires a child from birth to the age of school entry, who is under court-ordered protective supervision or in out-of-home care and is enrolled in an early education or child care program, to attend the program 5 days a week unless the court grants an exemption.

¹¹ The FDLE and the DCF, *Operation SafeKids, Results, Findings & Recommendations* (Dec. 17, 2002), available at https://popcenter.asu.edu/sites/default/files/problems/runaways/PDFs/FL%20DOC&F_2002.pdf (last visited February 5, 2023).

¹² *Id.*

The FDLE reports that the FDLE's Missing Endangered Persons Information Clearinghouse (MEPIC)¹³ led a multi-agency statewide effort titled "Operation Safe Kids." Part of this operation's work was to implement the now standard procedure of opening a missing persons case for every child discovered missing while under the DCF custody. The DCF, as the custodian of the missing child, makes the initial missing report to the appropriate local law enforcement agency who then enters the case into the Florida Crime Information Center (FCIC).

This entry ensures all law enforcement and criminal justice professionals nationwide making inquiries regarding a possible missing child similar to the subject of the case are notified of the Florida missing child. Additionally, the DCF creates a record in the Florida Safe Families Network (FSFN) concerning the missing episode.¹⁴

A DCF liaison, co-located within MEPIC, performs quality control on the information in FSFN using internal DCF information and the missing child's FCIC entry. This information is electronically transferred from the DCF liaison to members of MEPIC who facilitate its entry into MEPIC's Missing Persons Database (MPDB). In addition to populating multiple Florida systems and data access points to, the MPDB electronically transfers the information to the National Center for Missing and Exploited Children (NCMEC). When fully implemented in February of 2008, this electronic process became the first of its kind in the nation, rapidly transferring missing child data for a child in state care to both state and federal missing persons clearinghouses to minimize the time for the safe recovery of the child.¹⁵

The co-location and partnership with the DCF personnel within MEPIC facilitates the ongoing effectiveness and continued success of this system as well as the facilitation of near immediate agency-to-agency communication and information sharing between state and local partners on all DCF missing child cases. This benefit is particularly valuable with those cases involving the most serious danger for the children and urgency required to insure a safe recovery.¹⁶

Additionally, a Florida Senate interim project report noted that the disappearance of Rilya Wilson in 2002 raised national awareness of the problem of children who become missing while under the care of the child welfare agencies. Florida and many other states have studied the issue and enacted legislation and implemented policies intended to improve tracking of children in state care. The report made a number of recommendations related to changes in Florida law, including:

- Give the DCF rule-making authority specific to missing children to promulgate rules that will provide comprehensive, explicit, and consistent guidelines for employees and contracted providers.

¹³ The Missing Endangered Persons Information Clearinghouse (MEPIC) is the central repository of information regarding missing endangered persons in Florida. MEPIC assists law enforcement in finding missing persons by providing analytical services and engaging the public in the search. MEPIC has worked with partner agencies to develop the Florida AMBER Plan and Florida Silver Alert Plan. MEPIC is responsible for issuing all AMBER Alerts, Missing Child Alerts, and State Silver Alerts in Florida. Available at: <https://www.fdle.state.fl.us/mcicsearch/> (Last visited February 3, 2023).

¹⁴ The FDLE, *2023 FDLE Legislative Bill Analysis SB 204*, p. 5, January 17, 2023 (on file with the Senate Committee on Children, Families, and Elder Affairs) (hereinafter "The FDLE SB 204 Analysis").

¹⁵ *Id.*

¹⁶ *Id.*

- The Legislature should amend Chapter 39 to require the department and its contracted providers to report a child as missing to the appropriate law enforcement agency after making reasonable, but unsuccessful, efforts to locate the child.
- Amend s. 937.021(1), F.S., to clarify that a law enforcement agency must take reports of missing children, not only from parents and guardians, but also from the DCF and its contracted providers.
- Amend s. 787.04(3), F.S., to change the requirement from “criminal intent” to “knowingly and willfully” in regards to removing a minor from the state or concealing the minor during the pendency of a dependency proceeding or any investigation, action, or proceeding related to the abuse or neglect of the minor.¹⁷

These recommendations were enacted during the 2008 legislative session.¹⁸

Collection of Information Related to Children in Out-of-home Care

Federal rules enacted in 1993 supported states in planning, designing, developing, and implementing a Statewide Automated Child Welfare Information System (SACWIS) system. SACWIS was a comprehensive, automated case management system that helps social workers manage foster care and adoption cases.

Under the SACWIS rules states were required to collect 66 data elements, including demographic information on the child’s race, age, gender, and date of entry into care. SACWIS included case-related information, such as removal reason, service goals, number of placements, and availability for adoption. States were allowed to include other data elements to meet their needs, including elements that help caseworkers manage their caseloads within the structure of the child welfare system.

In 2016, the Administration for Children and Families (ACF) issued a final rule to replace the aging SACWIS rules with a set of modernized rules to create a Comprehensive Child Welfare Information system (CCWIS).¹⁹ CCWIS maintains the required data elements of the old SACWIS rules but streamlines those rules and also requires specific data exchanges that have been made possible by technologies since the original SACWIS rules in 1993. The new exchanges must support collaboration and interoperability that create efficient, economical, and effective data sharing with multiple child-serving agencies such as the courts, juvenile justice, mental and behavioral health, Medicaid, and others.

Currently, the FSFN is named as the SACWIS system-of-record in rule.²⁰ However, the DCF has notified the ACF of plans to transition from SACWIS to a modernized CCWIS under the 2016

¹⁷ The Florida Senate, Committee on Children, Families, and Elder Affairs, *Missing Children*, Interim Project Report 2008-106, October 2007, available at <https://www.flsenate.gov/UserContent/Committees/Publications/InterimWorkProgram/2008/pdf/2008-106cf.pdf> (last visited February 3, 2023).

¹⁸ Chapter 2008-245, L.O.F.

¹⁹ 45 C.F.R. ss. 1355.50 through 1355.59.

²⁰ Rule 65C-38.001, F.A.C.

regulations in a multi-year IT project. The ACF lists Florida's FSFN system is currently listed with the ACF as a "transitional" CCWIS system in "development" with a "TBD" name.²¹

Florida Institute for Child Welfare

In 2014, the Legislature established the Florida Institute for Child Welfare (FICW) at the Florida State University, College of Social Work. The FICW is to advance the well-being of children and families by improving the performance of child protection and child welfare services through research, policy analysis, evaluation, and leadership development.²² Law requires the FICW to establish an affiliate network of public and private universities with accredited degrees in social work.²³ The FICW is also required to:

- Maintain a program of research contributing to the scientific knowledge related to child safety, permanency, and child and family well-being.
- Advise the DCF and other organizations about scientific evidence regarding child welfare practice, as well as management practices and administrative processes.
- Assess performance of child welfare services based on specified outcome measures.
- Evaluate training requirements for the child welfare workforce and the effectiveness of training.
- Develop a program of training and consulting to assist organizations with employee retention.
- Identify and communicate effective policies and promising practices.
- Recommend improvements in the state's child welfare system.
- Submit annual reports to the Governor and Legislature.²⁴

Task Force

Section 20.03, F.S., includes definitions related to the required organizational structure of task forces. In part, it defines a "task force" as an advisory body created without specific statutory enactment for a time not to exceed one year or created by specific statutory enactment for a time not to exceed three years and appointed to study a specific problem and recommend a solution or policy alternative with respect to that problem. Its existence terminates upon the completion of its assignment.²⁵

Florida has established a number of task forces in the past related to child welfare. These have typically been created either by the Governor or the DCF in response to incidents involving a child under the DCF's custody. Examples of these include, in part:

- The Nubia Report, the Investigative Panel's Findings and Recommendations, 2011.²⁶

²¹ Children's Bureau, Administration for Children & Families, *CCWIS Status* (January 5, 2023), available at <https://www.acf.hhs.gov/cb/training-technical-assistance/ccwis-status> (last visited February 6, 2023).

²² Section 1004.615, F.S.

²³ All public universities with such programs in Florida are currently part of the network. In 2017, the FICW expanded its affiliate network to include research affiliates, and there are now over 50 research faculty affiliates.

²⁴ Section 1004.615, F.S.

²⁵ Section 20.30(8), F.S.

²⁶ Lawrence, D., Martinez, R., and Sewell, J., *The Nubia Report, The Investigative Panel's Findings and Recommendations*, available at <https://www.myflfamilies.com/service-programs/child-welfare/kids/publications/docs/taskforce/NubiasStory.pdf> (last visited February 6, 2023).

- Family Safety Quality Assurance Review of Courtney Alisa Clark, Initial Findings, 2007.²⁷
- Report of Gabriel Myers Work Group on Child-on-Child Sexual Abuse, 2010.²⁸
- Governor's Blue Ribbon Panel on Child Protection, 2003 (Rilya Wilson).²⁹

There is currently no task force that monitors children in out-of-home care.

III. Effect of Proposed Changes:

The bill creates the Task Force on the Monitoring of Children in Out-of-Home Care adjunct to the FDLE. The Task Force is created to identify and counter the root causes of why children go missing while in out-of-home care and to ensure prompt and effective action is taken to address such causes. The bill requires the Task Force to examine and recommend improvements to current policies, procedures, programs, and initiatives to prevent children from going missing while in out-of-home care and to ensure that timely and comprehensive steps are taken to find children who are missing for any reason, including, but not limited to, running away, human trafficking, and abduction by a parent or a person who does not have care or custody of the child.

The Task Force comprises the following 13 members:

- A member of the Senate, appointed by the President of the Senate.
- A member of the House of Representatives, appointed by the Speaker of the House of Representatives.
- The Secretary of the DCF, or designee.
- The Secretary of the Department of Juvenile Justice, or designee.
- The executive director of the Statewide Guardian ad Litem Office, or designee.
- The executive director of the FDLE, or designee.
- A representative from Safe Kids Florida, appointed by the State Surgeon General.
- A representative from the Statewide Council on Human Trafficking, appointed by the Attorney General.
- A representative from a CBC that delivers child welfare services in a rural county, appointed by the DCF's Secretary.
- A representative from a CBC that delivers child welfare services in an urban county, appointed by DCF's Secretary.
- A licensed foster parent, appointed by the DCF's Secretary.
- A representative from a residential group care provider, appointed by the DCF's Secretary.
- A young adult who aged out of the foster care system, appointed by the DCF's Secretary.

The bill requires all Task Force appointments to be made by August 1, 2023, and provides that each member serves at the pleasure of the appointing official. A vacancy on the Task Force must

²⁷ The DCF, *Family Safety Quality Assurance Review of Courtney Alisa Clark, Initial Findings*, available at https://www.myflfamilies.com/service-programs/child-welfare/kids/publications/docs/taskforce/cclark_QA_Initial_Findings.pdf (last visited February 6, 2023).

²⁸ The DCF, *Report of Gabriel Myers Work Group on Child-on-Child Sexual Abuse*, available at <https://www.myflfamilies.com/initiatives/GMWorkgroup/docs/Gabriel%20Myers%20COC%20Report%20May%2014%202010.pdf> (last visited February 6, 2023).

²⁹ The DCF, *Governor's Blue Ribbon Panel on Child Protection*, available at <https://www.myflfamilies.com/service-programs/child-welfare/kids/publications/docs/taskforce/BlueRibbonFinal110703.pdf> (last visited February 6, 2023).

be filled in the same manner as the original appointment. The members must elect a chair from among the members.

The bill requires the Task Force to convene no later than September 1, 2023, and to meet monthly thereafter or upon the call of the chair. The bill allows meetings to be held through teleconference or other electronic means.

The Task Force must:

- Analyze statistical data regarding children in out-of-home care who are missing and the reasons why, if known;
- Identify the root causes of why children go missing while in out-of-home care and how to prevent children from going missing while in out-of-home care;
- Assess the relationship between children who go missing from out-of-home care and the risks of such children becoming victims of human trafficking;
- Assess the comprehensiveness and effectiveness of existing policies and procedures for preventing children in out-of-home care from going missing, for promptly determining whether such children are missing, and for locating such children;
- Evaluate the state's approaches to reporting on the individual status of children missing from out-of-home care and the results of the efforts to locate such children, including, but not limited to, the use of technology, training, communication, and cooperation;
- Measure the overall performance of efforts to locate and recover children missing from out-of-home care, including, but not limited to, the communication and response between CBC's, the DCF, and other entities;
- Collaborate with the FICW to identify best practices used in other states for monitoring the location of children in out-of-home care who go missing, and evaluate whether such practices should be adopted in the state; and
- Submit recommendations to improve policies, procedures, and systems in the state, including, but not limited to, technology, training, communication, and cooperation, so all entities are effectively monitoring children in out-of-home care, responding appropriately when such children go missing, and preventing such children from going missing while in out-of-home care.

The bill requires the FICW to conduct focus groups or individual interviews with children in out-of-home care and young adults formerly in foster care to assist the Task Force in fulfilling its duties. The focus groups and individual interviews must, at a minimum, consider the reasons why such children seek to leave their out-of-home placement, identify opportunities and resources to assist and prevent children from leaving their placements, and to facilitate the return of such missing children. The bill requires the FICW to submit the findings from the focus groups to the Task Force by April 1, 2024.

The bill requires the DCF to provide monthly reports to the Task Force until October 1, 2024. The monthly reports must, at a minimum, address the number and percentage of children in out-of-home care reported missing, the reasons why such children are missing, if known, and the length of time between when such children are reported missing and their recovery or return. The monthly reports must categorize the required data by age, county, CBC, and reason, if known.

The Task Force must submit a report with its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 1, 2024.

The bill includes a repeal date of June 30, 2025, for the section creating the Task Force, unless reviewed and saved from repeal by the Legislature.

The bill provides an effective date of July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Art. VII, s. 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The FDLE reports that due to the short-term nature of the Task Force, it will require two OPS positions totaling \$140,076 (\$130,986 recurring) to support the Task Force.³⁰

³⁰ The FDLE SB 204 Analysis, p. 4.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The FDLE has reported that as a task force pursuant to s. 20.03, F.S., this body would be required to meet sunshine meeting and records requirements. The bill does not provide an exception for closed sessions, therefore, task force members would not be able to openly discuss confidential and/or exempt records without waiving such rights. Further, the FDLE states that there may be the need to occasionally possess and review law enforcement sensitive information in this setting.³¹ The FDLE respectfully recommends mirroring language found in s. 943.687(8), FS, which provides: “Any portion of a meeting of the Marjory Stoneman Douglas High School Public Safety Commission at which exempt or confidential and exempt information is discussed is exempt from s. 286.011, FS, and s. 24(b), Art. I of the State Constitution.”³²

Additionally, the FDLE requests that additional language be included in the bill to allow for the Task Force to possess records while maintaining any exemption or confidentiality status those records may have already maintained and language authorizing closed sessions to discuss confidential and/or exempt materials that the Task Force may regularly need, such as active criminal intelligence information or active criminal investigative information, or personal identifiable information of individuals such as victims who may have constitutional rights under Marsy’s Law.³³

VIII. Statutes Affected:

This bill creates section 39.4093 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Fiscal Policy on March 9, 2023:

The committee substitute adds the option of an individual interview with youth and young adults as an option for the information gathering required under the bill.

- B. **Amendments:**

None.

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

³¹ The FDLE SB 204 Analysis, p. 5.

³² *Id.*

³³ *Id.*