

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB CFS 17-02 Child Welfare
SPONSOR(S): Children, Families & Seniors Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Children, Families & Seniors Subcommittee		Tuszynski	Brazzell

SUMMARY ANALYSIS

Chapter 39, F.S., creates the child welfare dependency system, administered by the Department of Children and Families' (DCF) Office of Child Welfare in partnership with local communities and the courts. DCF contracts for foster care placement and related services with lead agencies, also known as community-based care organizations (CBC).

DCF is required to administer a system of care that prevents the separation of children from their families and provides interventions to allow children to remain safely in their own homes. However, when it is determined that in-home services are not enough to allow a child to safely remain in his or her home, the child is removed from his or her home and placed with a safe and appropriate temporary out-of-home placement. DCF uses a child welfare practice model that standardized the approach to safety decision making and risk assessment to determine a child's safety.

PCB CFS 17-02 requires DCF to develop, in collaboration with CBCs, service providers, and other community stakeholders, a statewide quality rating system for providers of residential group care and foster homes. The system must promote high quality in services and accommodations by creating measurable minimum quality standards that providers must meet to contract with CBCs. DCF must submit a report to the Governor, President of the Senate, and Speaker of the House on October 1, 2017, and by October 1 of each year thereafter. The initial report must include an update on implementation and a plan for oversight of the implementation of the system and beginning in October of 2019 the report must include a list of providers meeting minimum quality standards, the percentage of children placed with highly rated providers, and any negative actions taken against providers for not meeting minimum quality standards.

The bill requires DCF to not only ensure the quality of contracted services and programs offered to families in the dependency system, but also ensure an adequate array of services available to be delivered through the CBCs.

The bill allows the dependency court to order "maintain and strengthen" in the child's home as a permanency goal for children in the dependency system by adding this goal to the options a dependency court is able to order for children in the dependency system. The bill also revises the definition of "permanency goal" by removing language duplicated in substantive law.

The bill extends the jurisdiction of the dependency court over young adults with a disability until the age of 22. The bill also requires that a child's transition plan must be approved by the court before a child's 18th birthday regardless of whether the child is leaving care at 18 and requires that the transition plan must be attached to the case plan and updated before each judicial review.

The bill has an indeterminate fiscal impact. See fiscal comments.

The bill provides an effective date of July 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Florida's Child Welfare System

Chapter 39, F.S., creates the dependency system that aims to protect children and prevent abuse, abandonment, and neglect.¹ The Department of Children and Families (DCF) Office of Child Welfare works in partnership with local communities and the courts to ensure the safety, timely permanency and well-being of children.

DCF's practice model is based on preserving and strengthening the child's family ties whenever possible, removing the child from his or her home only when his or her welfare and safety cannot be adequately safeguarded otherwise.² DCF contracts with community-based care lead agencies (CBC) to coordinate case management and services for families within the dependency system.

The Department of Children and Families' Practice Model

DCF's child welfare practice model (model) standardizes the approach to safety decision making and risk assessment used to determine a child's safety.³ The model seeks to achieve the goals of safety, permanency, and child and family well-being.⁴ The model emphasizes parent engagement and empowerment as well as the training and support of child welfare professionals to assess child safety.⁵ Several key practices are used to achieve these goals.⁶

- Engaging the family to build rapport and trust.
- Partner with all involved stakeholders to increase support for the family.
- Plan for child safety by including the family and other partners to develop and implement short-term actions to keep the child safe in the home or, if necessary, in out-of-home care.
- Plan for changes by working with the child, family members, and other team members to identify appropriate interventions and supports necessary to achieve child safety, permanency and well-being.
- Monitor and adapt case plans to help families navigate the dependency system and link them to services aimed at helping maintain child and family well-being.

The model emphasizes a family-centered practice with the goal of keeping children in their homes whenever possible.⁷

Community-Based Care Organizations and Services

DCF contracts for case management, out-of-home care, and related services with lead agencies, also known as community-based care organizations (CBCs). The model of using CBCs to provide child welfare services is designed to increase local community ownership of service delivery and design.⁸

¹ S. 39.001(8), F.S.

² S. 39.001(4), F.S.

³ The Department of Children and Families, *2013 Year in Review*, available at: <http://www.dcf.state.fl.us/admin/publications/year-in-review/2013/page19.shtml> (last accessed March 6, 2017).

⁴ The Department of Children and Families, *Florida's Child Welfare Practice Model*, available at: <http://www.myflfamilies.com/service-programs/child-welfare/child-welfare-practice-model> (last accessed March 7, 2017).

⁵ Supra, at FN 3.

⁶ Supra, at FN 4.

⁷ The Department of Children and Families, *2012 Year in Review*, available at: <http://www.dcf.state.fl.us/admin/publications/year-in-review/2012/page9.shtml> (last accessed March 7, 2017).

DCF, through the CBCs, is required to administer a system of care⁹ for children that is directed toward:

- Prevention of separation of children from their families;
- Intervention to allow children to remain safely in their own homes;
- Reunification of families who have had children removed from their care;
- Safety for children who are separated from their families;
- Focus on the well-being of children through emphasis on educational stability and timely health care;
- Permanency; and
- Transition to independence and self-sufficiency.

CBCs are responsible for providing foster care and related services. These services include, but are not limited to, counseling, domestic violence services, substance abuse services, family preservation, emergency shelter, and adoption.¹⁰ The CBC must give priority to services that are evidence-based and trauma informed.¹¹ CBCs contract with a number of subcontractors for case management and direct care services to children and their families.¹² There are 17 CBCs statewide, which together serve the state's 20 judicial circuits.¹³

Dependency Case Process

When a child is removed 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	Description	Statute
Removal	The child's home is determined to be unsafe, and the child is removed	s. 39.401, F.S.
Shelter Hearing	A shelter hearing occurs within 24 hours after removal. The judge determines whether to keep the child out-of-home.	s. 39.401, F.S.
Petition for Dependency	A petition for dependency occurs within 21 days of the shelter hearing. This petition seeks to find the child dependent.	s. 39.501, F.S.
Arrestment Hearing and Shelter Review	An arrestment and shelter review 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.
Adjudicatory Trial	An adjudicatory trial is held within 30 days of arrestment, to determine whether a child is dependent.	s. 39.507, F.S.
Disposition Hearing	Disposition occurs within 15 days of arrestment or 30 days of adjudication. The judge reviews and orders the case plan for the family and the appropriate placement of the child.	ss. 39. 506 and 39.521, F.S.
Judicial Review Hearings	The court must review the case plan and placement every 6 months, or upon motion of a party.	s. 39.701, F.S.

⁸ Community-Based Care, The Department of Children and Families, accessible at <http://www.myflfamilies.com/service-programs/community-based-care> (last viewed February 12, 2016).

⁹ S. 409.145(1), F.S.

¹⁰ Id.

¹¹ S. 409.988(3), F.S.

¹² Supra. at FN 8.

¹³ Community Based Care Lead Agency Map, The Department of Children and Families, available at: <http://www.myflfamilies.com/service-programs/community-based-care/cbc-map> (last accessed March 6, 2017).

Placements of Children in the Child Welfare System

In-Home with Services

DCF is required to administer a system of care that prevents the separation of children from their families and provides interventions to allow children to remain safely in their own homes.¹⁴ Protective investigators and CBC case managers can refer families for in-home services to allow a child, who would otherwise be unsafe, to remain in his or her own home.

As of December 31, 2016, there were 12,477 children receiving in-home services.¹⁵

Out of Home Placements

When a child protective investigator determines that in-home services are not enough to allow a child to safely remain in his or her home, the investigator removes the child from his or her home and places the child with a safe and appropriate temporary placement. These temporary placements, referred to as out-of-home care, provide housing and services to children until they can return home to their family or achieve permanency with another family through adoption or guardianship.¹⁶ CBCs must place all children in out-of-home care in the most appropriate available setting after conducting an assessment using child-specific factors.¹⁷

Relatives and Non-Relative Caregivers

Research indicates that children in the care of relatives and non-relatives, such as grandparents or family friends, benefit from increased placement stability and are less likely to change placements as compared to children placed in general foster care.¹⁸ When possible, child protective investigators and lead agency case managers place the children with a relative or responsible adult that the child knows and with whom they have a relationship.¹⁹ Relative and non-relative caregivers are not required to be licensed, but do undergo a home-study to determine if the home is appropriate to place the child.²⁰

As of December 31, 2016, there were 13,056 children placed with relative and non-relative caregivers.

Licensed Out-of-Home Care

When a relative or non-relative caregiver placement is not possible, protective investigators and case managers try to place the children in family foster homes licensed by DCF.²¹ A family foster home is a licensed private residence in which children who are unattended by a parent or legal guardian are provided 24-hour care. Such homes include emergency shelter family homes and specialized foster homes for children with special needs.²² Foster homes are inspected and licensed,²³ and foster parents go through a rigorous interview process before being approved.²⁴

¹⁴ Supra, at FN 9.

¹⁵ Department of Children and Families, DCF Quick Facts, Child Welfare, available at: <http://www.dcf.state.fl.us/general-information/quick-facts/cw/> (last accessed March 8, 2017).

¹⁶ Office of Program Policy and Government Accountability, Research Memorandum, Florida's Residential Group Care Program for Children in the Child Welfare System (December 22, 2014) (on file with the Children, Families, and Seniors Subcommittee).

¹⁷ Child-specific factors include age, sex, sibling status, physical, educational, emotional, and developmental needs, maltreatment, community ties, and school placement. (Rule 65C-28.004, F.A.C.)

¹⁸ David Rubin and Downes, K., et al., The Impact of Kinship Care on Behavioral Well-being for Children in Out-of-Home Care (June 2, 2008), available at: <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2654276/> (last accessed March 8, 2017).

¹⁹ Office of Program Policy and Government Accountability, Research Memorandum, Florida's Residential Group Care Program for Children in the Child Welfare System (December 22, 2014) (on file with the Children, Families, and Seniors Subcommittee).

²⁰ S. 39.521(2)(r), F.S.

²¹ Id.

²² S. 409.175, F.S.

²³ Id.

²⁴ Florida Department of Children and Families, *Fostering Definitions*, available at: <http://www.myflfamilies.com/service-programs/foster-care/definitions> (last accessed March 7, 2017).

Some children have extraordinary needs, such as multiple placement disruptions, mental or behavioral health problems, juvenile justice involvement, or disabilities, which may lead case managers to place them in residential group care (RGC). The primary purpose of RGC is to provide a setting that addresses the unique needs of children and youth who require more intensive services than a family setting can provide.²⁵ RGC placements are licensed by DCF as residential child-caring agencies²⁶ that provide staffed 24-hour care for children in facilities maintained for that purpose, regardless of whether operated for profit or whether a fee is charged.²⁷ These include maternity homes, runaway shelters, group homes, and emergency shelters.²⁸ The two primary models of group care are the shift model, with staff working in shifts providing 24-hour supervision, and the family model, which has a house parent or parents that live with and are responsible for 24-hour care of children in the group home.²⁹

By law, CBCs must assess any child that meets the following criteria for placement in RGC:

- The child is 11 or older;
- The child has been in licensed family foster care for six months or longer and removed from family foster care more than once; and
- The child has serious behavioral problems or has been determined to be without the options of either family reunification or adoption.³⁰

In addition, the CBC must consider psychological evaluations, information provided by professionals with knowledge of the child, and the desires of the child concerning placement.³¹ Children who do not meet the specified criteria may still be placed in RGC if it is determined that such placement is the most appropriate for the child.³²

RGC placement can also serve as a treatment component of the children's mental and behavioral health care.³³ Children in RGC with behavioral health needs receive mental health, substance abuse, and support services that are provided through Medicaid-funded Behavioral Health Overlay Services.³⁴ Residential group homes also directly employ or contract with therapists and counselors to provide services within the group home setting.³⁵

As of December 31, 2016, there were 12,478 children in licensed out-of-home care, including in foster homes and RGC.³⁶

²⁵ Supra, at FN 19.

²⁶ Supra, at FN 19.

²⁷ S. 409.175, F.S.

²⁸ Id.

²⁹ Supra, at FN 19.

³⁰ S. 39.523(1), F.S.

³¹ Id.

³² S. 39.523(4), F.S.

³³ Richard Barth, *Institutions vs. Foster Homes: The Empirical Base for the Second Century of Debate*. Chapel Hill, NC: University of North Carolina, School of Social Work, Jordan Institute for Families (June 17, 2002), available at:

http://www.researchgate.net/publication/237273744_vs._Foster_Homes_The_Empirical_Base_for_a_Century_of_Action.

³⁴ Office of Program Policy and Government Accountability, Research Memorandum, Florida's Child Welfare System: Out-of-Home Care (November 12, 2015) (on file with the Children, Families, and Seniors Subcommittee).

³⁵ Id.

³⁶ Supra, at FN 15.

Licensure

DCF licenses most out-of-home placements, including family foster homes, residential child-caring agencies (residential group care), and child-placing agencies.³⁷ The following placements do not require licensure:³⁸

- Relative caregivers;
- Non-relative caregivers;
- An adoptive home which has been approved by the department or by a licensed child-placing agency for children placed for adoption; and
- Persons or neighbors who care for children in their homes for less than 90 days.

Licensure involves meeting rules and regulations pertaining to:³⁹

- The good moral character of personnel and foster parents based on background screening, education, training, and experience requirements;
- Operation, conduct, and maintenance;
- The provision of food, clothing, educational opportunities, services, equipment, and individual supplies to assure the healthy physical, emotional, and mental development of the children served;
- The appropriateness, safety, cleanliness, and general adequacy of the premises, including fire prevention and health standards, to provide for the physical comfort, care, and well-being of the children served;
- The ratio of staff to children required to provide adequate care and supervision of the children served; and
- In the case of foster homes, the maximum number of children in the home.

These licensure standards are the minimum requirements that must be met to care for children within the child welfare system. DCF must issue a license for those homes and agencies that meet the minimum licensure standards.⁴⁰ However, the issuance of a license does not require a CBC to place a child with any home or agency.⁴¹

Extended Foster Care

In 2014, the Legislature provided foster youth the option to extend foster care.⁴² Previously, youth did not have the option to remain in foster care after their 18th birthday. Now, through extended foster care, they have the option to remain in care until they turn 21 or 22 if the young adult has a disability.⁴³ Young adults are also eligible to receive financial assistance as they continue pursuing academic and career goals if enrolled in an eligible post-secondary institution.⁴⁴ In extended foster care, young adults continue to receive case management services and other supports to provide them with a sound platform for success as independent adults.

³⁷ S. 409.175, F.S.

³⁸ Id.

³⁹ S. 409.175, F.S.

⁴⁰ S. 409.175(6)(h), F.S.

⁴¹ S. 409.175(6)(i), F.S.

⁴² S. 39.6251, F.S.

⁴³ The Department of Children and Families, *Extended Foster Care – My Future My Choice*, available at:

<http://www.myflfamilies.com/service-programs/independent-living/extended-foster-care> (last accessed March 7, 2017).

⁴⁴ Id.

Transition Plans

During the 6 month period immediately after a dependent child reaches 17 years of age, DCF and the CBCs, in collaboration with the child, his or her caregiver, and any other person the child would like to include must develop a transition plan.⁴⁵ These transition plans must address services, housing, health insurance, education, workforce support and employment services, and the maintenance of mentoring relationships and other personal supports.⁴⁶ The plan is designed to help transition a child in the dependency system to adulthood. A child's transition plan must be approved by the court "if a child is planning to leave care upon reaching 18 years of age . . . before the child leaves care."⁴⁷

Residential Group Care Quality Standards

Florida Institute for Child Welfare

The Florida Institute for Child Welfare (FICW) published a technical report titled "Improving the Quality of Residential Group Care: A Review of Current Trends, Empirical Evidence, and Recommendations" in July of 2015. This report looked at the current trends and evidence related to residential group care, finding that:

"Although the appropriate use of RGC has been a subject of longstanding debate, most child welfare experts, including practitioners, researchers, and advocacy groups, acknowledge that for some youth involved in the child welfare system, high quality group care is an essential and even lifesaving intervention."⁴⁸

Based on reviews of current trends and issues, findings from research, and reviews of recommendations proposed by child welfare experts and advocacy groups, the FICW made the following seven recommendations.⁴⁹

1. Develop and implement a basic set of common quality standards for RGC.
2. Increase evaluation efforts to identify and support evidence-based RGC services.
3. Support RGC providers in strengthening efforts to engage families.
4. Explore innovative approaches, including those that are trauma-informed and relationship-based.
5. Increase efforts to identify and implement culturally competent practices that are supported by research.
6. Continue to build upon efforts to strengthen the child welfare workforce.
7. Explore flexible funding strategies that can help facilitate higher quality services and innovative uses of RGC that are consistent with systems of care principles.

The recommendations made by the FICW focus mainly on quality and implementing strategies to facilitate high quality services within RGC.

Group Care Quality Standards Workgroup

Also in 2015, DCF and the Florida Coalition for Children established the Group Care Quality Standards Workgroup (workgroup), with representation from group care providers, CBCs, and DCF. The workgroup reviewed standards-related literature to determine consensus and ensure a high quality of

⁴⁵ S. 39.6035(1), F.S.

⁴⁶ Id.

⁴⁷ S. 39.6035(4), F.S.

⁴⁸ Boel-Studt, S. M. (2015). *Improving the Quality of Residential Group Care: A Review of Current Trends, Empirical Evidence, and Recommendations* (Florida Institute for Child Welfare).

⁴⁹ Id.

group care standards.⁵⁰ The workgroup identified eight specific categories for quality standards with 251 distinct quality standards for residential group care.⁵¹

The workgroup and FICW started the Quality Standards for Group Care Initiative, which consists of 6 project phases.⁵²

1. Development of core quality standards
2. Development of a quality assessment tool
3. Pilot test of the quality assessment tool
4. Field test of the quality assessment tool
5. Implementation of the quality assessment tool
6. Validation of the quality assessment tool.

In September 2015, DCF reviewed and approved the core quality standards, completing Phase 1.⁵³ The FICW developed a quality assessment tool shortly thereafter, completing phase 2.⁵⁴

On October 31, 2016, a rating scale pilot (phase 3) was implemented in DCF's Central service region with 11 group homes.⁵⁵ Once the field test is completed in July 2017, the data will be analyzed and the quality assessment tool will be finalized. Statewide implementation (phase 5) is scheduled for September of 2017 with validation (phase 6) scheduled 1 and 2 years after that.⁵⁶

Effect of Proposed Language

PCB CFS 17-02 extends the jurisdiction of the dependency court over young adults with a disability until the age of 22. The bill language updates the section of law detailing who the court has jurisdiction over to align with the extended foster care statute.⁵⁷ The bill requires that a regardless of whether a child is choosing to leave care at age 18, the child's transition plan must be approved by the court before a child's 18th birthday. The PCB also requires that the transition plan must be attached to the case plan and updated before each judicial review. This change in transition plan procedure will ensure that a young adult's transition plan detailing his or her transition out of the dependency system will be completed before his or her 18th birthday, regardless of the decision to leave care or stay in extended foster care. This will provide the court and other parties more time for input and planning.

The bill allows the dependency court to order "maintain and strengthen" a placement in the child's home as a permanency goal for children in the dependency system. This terminology is regularly used as a case plan goal but is not included in statute among the permanency goals the dependency court may order. This change aligns statute with current practice and DCF's practice model. The bill also revises the definition of "permanency goal" to remove provisions already duplicated in substantive law detailing what permanency goals the dependency court may order.

The bill requires DCF to ensure quality of contracted services and programs as well as ensure an adequate array of services available to be delivered through the CBCs. Statute currently vests responsibility in DCF for the quality of contracted services and their delivery in accordance with federal

⁵⁰ Group Care Quality Standards Workgroup, *Quality Standards for Group Care*, Florida Department of Children and Families and the Florida Coalition of Children (2015) (on file with Children, Families, and Seniors subcommittee staff).

⁵¹ Id.

⁵² Boel-Studt, S., et al., (2016). *Group Care Quality Standards Assessment: Pilot Test Orientation* [PowerPoint slides], (on file with Children, Families, & Seniors Subcommittee staff).

⁵³ Florida Institute of Child Welfare, *Quality Standards for Residential Group Care, A Pilot Test and Initial Validation of a Quality Rating Scale for Florida's Residential Group Homes*, available at: <http://ficw.fsu.edu/technical-assistance-training/quality-standards-residential-group-care> (last accessed March 11, 2017).

⁵⁴ Id.

⁵⁵ Id.

⁵⁶ Supra, FN 52.

⁵⁷ S. 39.6251(5)(a), F.S.

and state law. The new language expands that responsibility to not only ensure the quality of services but to also require an adequate array of services to be made available for children and families within the dependency system.

The bill requires DCF to develop, in collaboration with CBCs, service providers, and other community stakeholders, a statewide quality rating system for providers of residential group care and foster homes. The system must promote high quality in services and accommodations by creating measurable minimum quality standards that providers must meet to contract with CBCs. DCF must submit a report to the Governor, President of the Senate, and Speaker of the House on October 1, 2017, and by October 1 of each year thereafter. The initial report must include an update on implementation and a plan for oversight of the implementation of the system and beginning in October of 2019 the report must include a list of providers meeting minimum quality standards, the percentage of children placed with highly rated providers, and any negative actions taken against providers for not meeting minimum quality standards.

The bill provides for an effective date of July 1, 2017.

B. SECTION DIRECTORY:

- Section 1:** Amends s. 39.01, F.S., relating to definitions.
- Section 2:** Amends s. 39.013, F.S., relating to procedures and jurisdiction; right to counsel.
- Section 3:** Amends s. 39.6035, F.S., relating to transition plan.
- Section 4:** Amends s. 39.621, F.S., relating to permanency determination by the court.
- Section 5:** Amends s. 409.996, F.S., relating to duties of the Department of Children and Families.
- Section 6:** Provides for an effective date of July 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill has an indeterminate fiscal impact on state government. See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill has an indeterminate fiscal impact on the private sector. See fiscal comments.

D. FISCAL COMMENTS:

The fiscal impact on state government and the private sector is indeterminate. Impacts may relate to possible workload for the department, lead agencies, and providers for developing and implementing a quality rating system for group homes and foster homes. However these impacts may be able to be absorbed within the current system; for instance, DCF is currently piloting an RGC rating system with existing staff and resources.

There may be additional costs for the courts to carry out their duties under the bill, which are also indeterminate.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES