

## HOUSE OF REPRESENTATIVES FINAL BILL ANALYSIS

<b>BILL #:</b>	CS/HB 7013	<b>FINAL HOUSE FLOOR ACTION:</b>	
<b>SPONSOR(S):</b>	Health Care Appropriations Subcommittee; Health & Human Services Committee; Brodeur	68 Y's	50 N's
<b>COMPANION BILLS:</b>	CS/SB 320	<b>GOVERNOR'S ACTION:</b>	Pending

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### SUMMARY ANALYSIS

CS/HB 7013 passed the House on March 11, 2015, and subsequently passed the Senate on April 14, 2015.

The bill creates a program to advance the permanency, stability, and well-being of children in the child welfare system by awarding incentive payments to community-based care lead agencies (CBCs) and their subcontractors for achieving specified adoption performance standards. The program will require the Department of Children and Families (DCF) to conduct a baseline assessment of adoption performance. The bill requires DCF to then establish measurable outcome targets for performance by each CBC and its subcontractors and negotiate incentive payments to be paid to upon meeting these targets.

The bill re-creates a program to provide an adoption benefit of either \$5,000 or \$10,000, depending on whether the adopted child has special needs described in statute, for qualifying employees of state agencies who adopt a child from the child welfare system. The program was originally created in 2000 and provided benefits until its repeal in 2010. The benefit will be available for adoptions finalized on or after July 1, 2015.

The bill requires the CBCs to make reasonable attempts to contact adoptive families one year after the adoption's finalization to offer post-adoption services, document certain information related to the attempted contact, and report to DCF on the outcomes achieved and make recommendations for improvement.

The bill requires the Governor to select and recognize one or more individuals, families, or entities that have made significant contributions to the adoption of children from foster care each year. Currently the Office of Adoption and Child Protection (Office) in the Executive Office of the Governor works to promote adoption, support of adoptive families, and advance child abuse prevention. Donations of recognition awards may be received by the Office's direct support organization, authorized by current law.

The bill also requires DCF to prioritize educational stability for foster children, when in the child's best interest, and include homeschooling as one of several educational options. The bill states that a person cannot be prohibited from adopting solely because he or she desires to educate the child at home.

The bill requires child-placing agencies conducting intercountry adoption to maintain certain records and comply with federal requirements regarding the Hague Convention, an international agreement to establish safeguards to ensure that intercountry adoptions take place in the best interests of the child.

The bill repeals a statutory provision prohibiting adoptions by homosexuals that has been declared unconstitutional by the Florida Third District Court of Appeal.

There is an indeterminate impact to state government. There is no fiscal impact to local governments.

Subject to the Governor's veto powers, the effective date of this bill is July 1, 2015.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### Present Situation

##### Child Welfare System Adoptions

In Florida, the Department of Children and Families (DCF) provides child welfare services.<sup>1</sup> Child welfare services, including adoption services, must be delivered through community-based care (CBC) lead agencies contracted by DCF.<sup>2</sup> As part of these adoption services, 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 reunified with their parents. Research indicates that children generally have better outcomes through adoption than through placement in long-term foster care.<sup>3</sup>

During Fiscal Year (FY) 2013-14, 3,415 adoptions of children within the child welfare system were finalized in Florida. Over the last six fiscal years, the number of finalized adoptions has ranged from 2,945 to 3,870 annually.<sup>4</sup>

	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
<b>Foster Child Adoptions</b>	3,870	3,735	3,391	2,945	3,294	3,415

The vast majority of children adopted in FY 2013-14 were adopted by either relatives (50.29 percent) or foster parents (27.25 percent). Recruited parents comprised 22.47 percent of adoptions.

As of June 30, 2014, 3,031 children had had their parents' parental rights terminated and were legally available for adoption. Of these children, 673 did not have an adoptive family identified and were featured on a website as seeking a family. Of the 673 available without identified adoptive families, age information is available for 658 of these children:

- 15 were ages 0-5 (2.28 percent),
- 36 were ages 6-8 (5.47 percent),
- 39 were ages 9-10 (5.93 percent),
- 75 were ages 11-12 (11.40 percent),
- 160 were ages 13-14 (24.32 percent),
- 213 were ages 15-16 (32.37 percent), and
- 120 were age 17 (18.24 percent).<sup>5</sup>

DCF has information on the length of time these children have been waiting for adoption for 650 of the 673 children:

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<sup>1</sup> S. 20.19(4)(a)3., F.S.

<sup>2</sup> S. 409.986(1), F.S.

<sup>3</sup> 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.

<sup>4</sup> U.S. Department of Health and Human Services, Administration on Children, Youth, and Families, 2013. *Adoption of Children with Public Child Welfare Agency Involvement by State, FY 2003 through 2013*, available at [http://www.acf.hhs.gov/sites/default/files/cb/children\\_adopted.pdf](http://www.acf.hhs.gov/sites/default/files/cb/children_adopted.pdf). (last visited April 24, 2015).

<sup>5</sup> Florida Governor's Office of Adoption and Child Protection 2014 Annual Report, available at [http://www.flgov.com/wp-content/uploads/childadvocacy/OACP\\_2014\\_FINAL.pdf](http://www.flgov.com/wp-content/uploads/childadvocacy/OACP_2014_FINAL.pdf), p. 51. (last visited April 24, 2015).

- 110 had been waiting fewer than 12 months (16.92%),
- 145 had been waiting between 12 and 23 months (22.31%),
- 93 had been waiting between 24-35 months (14.31%), and
- 302 had been waiting 36 or more months (46.46%).<sup>6</sup>

These statistics highlight the predominance of older children waiting for adoption.

### *Adoption of Special Needs Children*

Older children are among those described as having “special needs” in statute. A “special needs child” is a child:

- Whose permanent custody has been awarded to DCF or a licensed child-placing agency; and
- Who has established significant emotional ties with 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.<sup>7</sup>

In FY 2013, 93.4 percent of children adopted from the child welfare system in Florida had special needs.<sup>8</sup>

### *Disruptions and Dissolutions of Adoptions*

Adoptions are intended to be permanent; however, disruptions (where an adoption placement terminates before finalization) and dissolutions (where adoptive parents’ parental rights are terminated and the child returns to foster care) do occur.<sup>9</sup> The nature of the experiences of children adopted from the child welfare system prior to joining their new adoptive families—such as parental drug abuse before birth or physical or sexual abuse—can lead to higher risks for developmental, health, emotional or behavioral issues.<sup>10</sup> These can present challenges to their new families in the long term.

In a small number of adoptions, the adopted child is unable to stay with his or her adoptive parents, thus resulting in dissolution. In FY 2013-14, 54 children returned to foster care in Florida. This happens for a variety of reasons, such as when there is verified child abuse or neglect by the adoptive parent, the adoptive parent cannot handle a child’s behavioral issues, or the adoptive parent refuses to allow the adopted child to return home after the child’s release from a mental health facility or a Department of Juvenile Justice facility. The majority of dissolutions occur during adoptive children’s

<sup>6</sup> Id. at p. 56.

<sup>7</sup> S. 409.166, F.S.

<sup>8</sup> U.S. Department of Health and Human Services, Administration on Children, Youth and Families, Children's Bureau, *Child is Identified as a Special Needs Adoption: October 1, 2012 to September 30, 2013 (FY 2013)*, available at <http://www.acf.hhs.gov/programs/cb/resource/special-needs-2013> (last visited Feb. 16, 2015).

<sup>9</sup> Florida Department of Children and Families. *Senate Bill 320 Analysis* (Jan. 27, 2015) (on file with the House Health & Human Services Committee). DCF does not currently track disruptions.

<sup>10</sup> Evan B. Donaldson Adoption Institute, *Keeping the Promise: Critical Need for post-Adoption Services to Enable Children and Families to Succeed*, Oct. 2010, p. 9.

teenage years; for example, 35 of the 54 children who returned to foster care permanently in FY 2013-14 were 13 years of age or older.<sup>11</sup>

### Federal Financial Incentives to Increase Adoptions of Children from Foster Care

In 1997, Congress enacted the Adoption and Safe Families Act (ASFA) as part of a larger strategy to reduce the number of children in foster care.<sup>12</sup> A major provision of ASFA created an incentive fund under Title IV-E of the Social Security Act to reward states if they increased adoptions of children in the foster care system. If states increased the number of children adopted from foster care over a previous year's high mark, they were awarded an incentive of \$2,000 to \$4,000 per child.<sup>13</sup>

Whether it was the impact of the adoption incentive payments to states, other changes mandated by ASFA, or a combination of multiple factors, adoptions of children from the foster care system nationally have increased over the past 20 years. For example, 25,700 children were adopted from foster care in the U.S. in 1995; in 2000, over 50,000 adoptions from foster care occurred. The total number of adoptions nationally has exceeded 50,000 in almost every year since, with a high of more than 57,000 adoptions occurring in 2009.<sup>14</sup>

The funding for the program has been reauthorized every 5 years.<sup>15</sup> With each reauthorization came changes in the how incentive amounts were determined. For example, in the 2003 and 2008 reauthorizations Congress provided an additional incentive for adoptions of "older" children (defined as a child nine years of age or older) who tend to be harder to place. The incentive was set at \$4,000 per adoption increase, \$4,000 per special needs adoption increase and now \$8,000 per older child adoption increase.<sup>16</sup>

Since 2008, Florida has been one of the primary recipients of those incentives, second only to Texas.<sup>17</sup>

	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
<b>Incentives Earned</b>	\$9.75M	\$6.45M	\$3.84M	\$1.99M	\$3.69M	\$3.49M

States are required to spend incentive funding to provide to children or families any activity or service, including post-adoption services, that may be provided under Part B or E of Title IV of the Social Security Act. Florida has always used the entirety of this funding to offset the cost of Maintenance Adoption Subsidies. While DCF sets and monitors performance measures and captures certain data related to adoption, the CBCs do not currently receive any state incentive payments for meeting the performance measures in their contract or other accountability reports.<sup>18</sup>

<sup>11</sup> *Supra*, note 5, p. 59.

<sup>12</sup> Pub. L. No. 105-89.

<sup>13</sup> *Id.*

<sup>14</sup> U.S. Department of Health and Human Services, Administration on Children, Youth, and Families, 2013. *Adoption of Children with Public Child Welfare Agency Involvement By State, FY 2003 through 2013*, available at [http://www.acf.hhs.gov/sites/default/files/cb/children\\_adopted.pdf](http://www.acf.hhs.gov/sites/default/files/cb/children_adopted.pdf). (last visited Jan. 31, 2015).

<sup>15</sup> The Adoption Promotion Act of 2003 (PL 108-145), the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Pub. L. No. 110-351), and the Preventing Sex Trafficking and Strengthening Families Act in 2014 (Pub. L. No. 113-183).

<sup>16</sup> State Policy Advocacy and Reform Center. *The Reauthorization of the Adoption Incentive Fund: Opportunities to Expand Reinvestment of State Funds into Child Welfare Services*, 2013, available at <https://childwelfareparc.files.wordpress.com/2013/08/the-reauthorization-of-the-adoption-incentive-fund.pdf> (last visited Feb. 10, 2015).

<sup>17</sup> U.S. Department of Health and Human Services, Administration on Children, Youth, and Families, 2013. *Adoption of Children with Public Child Welfare Agency Involvement By State, FY 2003 through 2013*, available at [http://www.acf.hhs.gov/sites/default/files/cb/children\\_adopted.pdf](http://www.acf.hhs.gov/sites/default/files/cb/children_adopted.pdf). (last visited April 24, 2015).

<sup>18</sup> Florida Department of Children and Families. *Senate Bill 320 Analysis* (Jan. 27, 2015) (on file with the House Health & Human Services Committee).

## Florida Adoption Benefits and Incentives for Adoptions of Children from Foster Care

### *Maintenance Adoption Subsidy*

DCF pays an annual Maintenance Adoption Subsidy to parents who adopt “special needs” children through the child welfare system.<sup>19</sup> The Maintenance Adoption Subsidy is \$5,000 annually, paid on a monthly basis, for the support and maintenance of a child until age 18. The subsidy may be a different amount, as determined by the adoptive parents and DCF. The agreement between DCF and the adoptive parents must take into consideration the parents’ circumstances and the needs of the child being adopted. The amount of subsidy may be adjusted based upon changes in the needs of the child or circumstances of the adoptive parents; however, DCF may not pay a subsidy that exceeds the foster care maintenance payment that would have been paid during the same period if the child had been in a foster family home.<sup>20</sup>

### *Post-Adoption Support*

CBCs have post-adoption counselors who can act as liaisons for adoptive families. For example, they can help locate adoption-competent mental health therapists, participate in school conferences to advocate for the child, and link the family to other CBC resources that are generally available to families in need.<sup>21</sup> However, adoptive families often do not reach out for assistance until they are in a crisis situation, when issues are more difficult to address.

### *Medical Assistance*

Each child qualifies for Adoption Assistance Medicaid<sup>22</sup> when a child is approved for a Maintenance Adoption Subsidy. If an adopted child moves to another state, Adoption Assistance Medicaid can be obtained in the other state if the child is receiving a Title IV-E subsidy.<sup>23</sup> Medicaid is terminated at age 18 except for qualified children adopted at age 16 or 17, who are eligible for Medicaid until age 21.<sup>24</sup> DCF also provides post-adoption medical assistance for medical, surgical, hospital, and related services needed because of a physical or mental condition of the child which existed before the adoption, and which is not covered by Medicaid or other state programs such as Children’s Medical Services or Children’s Mental Health Services. Such assistance may be initiated at any time but shall terminate on or before the child’s 18th birthday.<sup>25</sup>

### *Financial Assistance for Adoption-Related Expenses*

DCF provides funding for non-recurring adoption-related expenses, up to \$1,000. Examples include attorney’s fees, court costs, birth certificate fees, travel expenses, agency fees, and physical examination fees.<sup>26</sup>

### *Education Assistance*

Children who were adopted from the department after May 5, 1997, are also exempt from the payment of post-secondary tuition and fees, including lab fees. This exemption applies to school districts that

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<sup>19</sup> S. 409.166, F.S.,

<sup>20</sup> Id.

<sup>21</sup> State of Florida, *Explore Adoption* website, available at <http://www.adoptflorida.org/post-adoption-support.shtml> (last visited March 3, 2015).

<sup>22</sup> 42 U.S.C. §1396a (10)(A)(i)(I); 42 C.F.R. §§435.115(1), 435.145, 435.909, 436.114.

<sup>23</sup> 42 C.F.R. §§ 435.403(g), 435.110, 435.115(e), 435.145.

<sup>24</sup> Email from Nicole Stookey, Deputy Legislative Affairs Director, DCF, RE: Adoption Benefits for Children Adopted From Foster Care, (Feb. 10, 2015).

<sup>25</sup> S. 409.166, F.S.

<sup>26</sup> Id.

provide workforce education programs, Florida College System institutions, and state universities. The exemption remains valid until the student reaches 28 years of age.<sup>27</sup>

### *Road-to-Independence Assistance*

A child who was at least 16 years of age and was adopted from foster care after spending at least 6 months in licensed care within the 12 months immediately preceding the adoption is eligible for post-secondary services and support under the Road-to-Independence Program.<sup>28</sup>

### Employer-Provided Adoption Benefits

A 2008-09 survey by Hewitt Associates of 940 large employers indicated that over half offered some type of adoption assistance to employees. Examples of benefits made available by employers include lump sum payments or reimbursement for adoption-related fees. Employers typically limit which employees may receive the benefit (such as requiring full-time or permanent status).<sup>29</sup>

### State Employee Adoption Benefit

Prior to 2010, Florida had an adoption benefit program for state employees. Created in 2000, the program provided a one-time cash benefit to employees of the state or of a water management district who adopted a child. Qualifying employees adopting a child defined as a special-needs child under s. 409.166, F.S., were eligible to receive a monetary benefit in the amount 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.<sup>30</sup> This allowed the benefit to be paid for both private and foreign adoptions.

The law was amended in 2001 to restrict the program to state employees who adopted a child from the foster care system.<sup>31</sup> The benefit program was expanded 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, in the list of employees eligible to receive the benefit. The Legislature also transferred the program from the Department of Management Services (DMS) to DCF.<sup>32</sup>

Previously, the Legislature funded the program at approximately \$1.8 million each year. This funding was inadequate to provide a benefit for every state employee adoption. For example, in 2004, the almost \$1.8 million appropriation was inadequate to fund all 243 eligible applications, only 179 were funded. In 2005, \$888,000 was appropriated, and only 89 of 167 eligible applications were funded. Total appropriations for the program for years 2000–2005 were \$3,063,687, and only 300 of 602 eligible adoptions were funded.<sup>33</sup> The program was funded for 10 years before being repealed in 2010.<sup>34</sup>

### Adoption Promotion and Recognition by the Governor's Office

Section 39.001(9), F.S., creates the Office of Adoption and Child Protection in the Executive Office of the Governor. The statute requires the Governor to appoint a Chief Child Advocate for the Office of

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<sup>27</sup> S. 1009.25, F.S.

<sup>28</sup> S. 409.1451, F.S.

<sup>29</sup> Child Welfare Information Gateway, *Employer-Provided Adoption Benefits*, 2011.

<sup>30</sup> S. 110.152, F.S. (2000). Chapter 2000-241, Laws of Florida.

<sup>31</sup> S. 110.52, F.S. (2001). Chapter 2001-256, Laws of Florida.

<sup>32</sup> S. 409.1663, F.S. (2007). Chapter 2007-119, Laws of Florida.

<sup>33</sup> Florida House of Representatives, Staff Analysis, CS/HB 803 (2007).

<sup>34</sup> Ch. 2010-158, Laws.

Adoption and Child Protection. Among the Chief Child Advocate's statutory duties are to promote adoption, support of adoptive families, and advance child abuse prevention through:

- Assisting in developing rules;
- Acting as the Governor's liaison with state agencies, other state governments, and the public and private sectors;
- Working to secure funding and other support for the state's efforts;
- Developing a strategic program and funding initiative that encourages state agency collaboration;
- Advising the Governor and the Legislature on key statistics; and
- Developing statewide public awareness campaigns.

The Office of Adoption and Child Protection is also directed to develop and update a comprehensive plan, advise on related programs and services, and provide or make available professional development opportunities.

Section 39.0011, F.S., authorizes the Office of Adoption and Child Protection to establish a direct-support organization (DSO). The DSO is to help the office promote adoption, support adoptive families, and prevent child abuse, abandonment, and neglect by raising money; submitting requests for and receiving grants from the Federal Government, the state or its political subdivisions, private foundations, and individuals; and making expenditures to or for the benefit of the office. The sole purpose for the DSO is to support the office. This DSO is currently in development.<sup>35</sup>

While currently there is no statutory requirement for the Governor to present an adoption achievement award, the Governor's Office engages in activities promoting adoption, particularly of children from the child welfare system. For example, to recognize National Adoption Month, in November 2014:

- Governor Scott issued a proclamation announcing November 2014 as Florida Adoption Month and National Adoption Day on Saturday, November 22, 2014.<sup>36</sup>
- First Lady Scott made a video encouraging Floridians to adopt a child from foster care.<sup>37</sup>
- The Governor's Office of Adoption and Child Protection, the department, CBC lead agencies, and community partners recognized National Adoption Month throughout the state with celebrations, awareness runs, parties, finalizations, and more. The Chief Child Advocate attended and participated in several adoption finalization events to show the support of the Governor's Office.
- The Chief Child Advocate reported on Florida's recent successes in adoption at the November 12, 2014, Cabinet meeting. Local adoptive parents were also invited to share their adoption story. During the meeting, the Cabinet issued a resolution of congratulations and best wishes to all families celebrating National Adoption Day on November 22, 2014.<sup>38</sup>

### Education of Children in Foster Care

A DCF administrative rule currently prohibits foster parents from homeschooling children in the foster care system.<sup>39</sup> As a result of the educational stability provisions of the federal Fostering Connections to

<sup>35</sup> Email from Zackary Gibson, Chief Child Advocate and Director, Office of Adoption and Child Protection, RE: Checking in on DSO (April 30, 2015) (email on file with Health and Human Services Committee staff).

<sup>36</sup> Available at [www.adoptflorida.org/NAM/2014/docs/NAM\\_Proclamation.pdf](http://www.adoptflorida.org/NAM/2014/docs/NAM_Proclamation.pdf) (last visited April 24, 2015).

<sup>37</sup> Videotape: National Adoption Month, available at [www.adoptflorida.org/videos.shtml](http://www.adoptflorida.org/videos.shtml). (last visited April 24, 2015).

<sup>38</sup> Florida Governor's Office of Adoption and Child Protection 2014 Annual Report, available at [http://www.flgov.com/wp-content/uploads/childadvocacy/OACP\\_2014\\_FINAL.pdf](http://www.flgov.com/wp-content/uploads/childadvocacy/OACP_2014_FINAL.pdf). (last visited April 27, 2015).

<sup>39</sup> Section 65C-13.029(1)(n)9., F.A.C.: "Licensed out-of-home caregivers shall work in partnership with the child's case manager to address the child's educational needs and to allow for the continuation of school attendance. To further promote visibility within the community, children in care may not be home schooled."



Success and Increasing Adoptions Act<sup>40</sup> and the normalcy provisions in Florida law<sup>41</sup>, DCF is amending the rule to require that, when a child is placed into foster care, the child remain in his or her school of origin if that is in that child's best interest. If it is not in the child's best interest to remain in his or her school of origin, then other options may be considered, including private school, virtual school, and home schooling.

### Intercountry Adoptions

Intercountry adoption of children involves compliance with two sets of laws: the laws of the country in which the child lives prior to the adoption and the country in which the adoptive parents live.<sup>42</sup> The Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption (Convention) governs adoptions involving certain countries.<sup>43</sup>

The Convention is an international agreement to safeguard intercountry adoptions. Concluded on May 29, 1993, in The Hague, the Netherlands, the Convention establishes international standards of practices for intercountry adoptions. The United States signed the Convention in 1994, and the Convention entered into force for the United States on April 1, 2008. The Convention applies to all adoptions by U.S. citizens habitually resident in the U.S. of children residing in any country outside of the U.S. that is a party to the Convention.<sup>44</sup>

Pursuant to the Convention, adoption agencies must meet accreditation or supervision requirements to conduct intercountry adoptions involving countries that are parties to the Hague Convention. The required status depends on the nature of adoption-related activities being performed by the agency.<sup>45</sup>

The Convention requires that countries who are party to it establish a central authority to be the authoritative source of information and point of contact in that country. The Department of State is the U.S. central authority for the Convention.

Florida law does not currently require adoption service providers to meet accreditation or supervision requirements of the Convention. Consequently, any enforcement of the provisions of the convention is left to federal authorities.<sup>46</sup>

### Adoption by Homosexuals

Section 63.042(3), F.S., prohibits a person who is homosexual from adopting. In 2010, the Florida Third District Court of Appeal held this statute to be unconstitutional.<sup>47</sup> The court held that the statute violated the equal protection rights of both the homosexual person and the child to be adopted.<sup>48</sup>

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<sup>40</sup> P.L. 110-351 requires foster care placement decisions to take into account the appropriateness of the current school and the proximity of that school to the placement. Title 42 U.S.C. 675(1)(G)(i).

<sup>41</sup> Section 409.145, F.S.

<sup>42</sup> *Intercountry Adoption*, Intercountry Adoption, Bureau of Consular Affairs, U.S. Department of State, available at <http://travel.state.gov/content/adoptionsabroad/en.html> (last visited March 3, 2015).

<sup>43</sup> The U.S. Department of State maintains a list of countries that are parties to the Convention, available at <http://travel.state.gov/content/adoptionsabroad/en/hague-convention/convention-countries.html> (last visited April 24, 2015).

<sup>44</sup> *Understanding the Hague Convention*, Intercountry Adoption, Bureau of Consular Affairs, U.S. Department of State, available at <http://travel.state.gov/content/adoptionsabroad/en/hague-convention/understanding-the-hague-convention.html> (last visited March 3, 2015).

<sup>45</sup> *Agency Accreditation*, Intercountry Adoption, Bureau of Consular Affairs, U.S. Department of State, available at <http://travel.state.gov/content/adoptionsabroad/en/hague-convention/agency-accreditation.html> (last visited March 3, 2015).

<sup>46</sup> Florida Senate Staff Analysis, SPB 7002 (Dec. 9, 2013).

<sup>47</sup> *Florida Dept. of Children and Families v. Adoption of X.X.G.*, 45 So. 3d 79, 91 (Fla. 3d DCA 2010).

<sup>48</sup> *Id.*



## Effect of Proposed Changes

### Adoption Incentive Program for CBCs

CS/HB 7013 creates s. 409.1662, F.S., to establish an adoption incentive program to advance permanency, stability, and well-being among children in the child welfare system. This program requires DCF to award incentive payments to CBCs and their subcontracted providers for meeting specific adoption performance standards that increase the number of adoptions that result in permanent placements that enhance children's well-being. DCF must conduct a baseline assessment of the adoption-related performance for CBCs and subcontracted providers. After this assessment, DCF must establish measurable outcome targets for performance by agreement with each CBC and subcontracted provider and negotiate incentive payments to CBCs and subcontracted providers for meeting these targets.

To conduct the baseline assessment of CBC performance, DCF must identify, at a minimum:

- The number of families attempting to adopt from foster care;
- The number of families who have completed the adoption process;
- The number of children eligible for adoption;
- The number of children whose adoptions have been finalized;
- The amount of time eligible children wait to be adopted;
- The number of disruptions;
- The number of dissolutions;
- The number of disruptions and dissolutions that were preventable by the CBC or the subcontracted provider;
- The time required to complete each phase of the adoption process;
- The expenditures made toward the recruitment of adoptive families;
- Any program or performance to improve and streamline the adoption process;
- Results of CBC efforts to obtain feedback from prospective and adoptive parents, children within the child welfare system, adoptees, and other stakeholders; and
- The use of evidence-based, evidence-informed, promising, and innovative practices in lead agencies' efforts to find homes for adoptable children.

DCF must report annually by November 15 to the Governor, President of the Senate, and Speaker of the House of Representatives on the implementation and results of the program. The report must also discuss the program enhancements made by each CBC and its subcontracted providers to achieve the negotiated outcomes.

### State Employee Adoption Benefit

The bill also creates s. 409.1664, F.S., to reestablish an adoption benefit program within DCF for qualifying state employees who adopt children from the foster care system beginning on July 1, 2015. Adoptive employees would receive a one-time benefit of \$10,000 for the adoption of a child with special needs as described in s. 409.166(2)(a)2., F.S., and \$5,000 for the adoption of a child who does not have such needs.

Qualifying employees would include those individuals who are regular (not temporary) employees, either full- or part-time, of:

- A branch, department, or agency of state government for which the Chief Financial Officer processes payroll requisitions;
- A state university or Florida College system institution;
- A school district unit;

- A water management district; and
- The Florida School for the Deaf and Blind (limited to instructional personnel).

Benefits would be provided on a first-come, first-served, basis, limited by the amount of the appropriation. The qualifying employee must apply for the benefit through his or her agency head using forms approved by DCF and provide documentation of the adoption.

Implementing the state employee adoption benefit may lead to disproportionate increases in adoptions in areas served by CBCs that include large state employee populations. These increases will be occurring at the time when the CBC incentive program is also being implemented. DCF will need to consider the interaction between these two programs in setting performance targets for the CBC incentive program to ensure that CBCs are rewarded for the adoption performance related to their efforts.

### Post-Adoption Services

The bill amends s. 39.812, F.S., to require CBCs to make a reasonable effort to contact adoptive families one year after the adoption's finalization to offer post-adoption services. The bill defines "reasonable effort" by the CBC as exercising reasonable diligence and care. This will provide adoptive families an opportunity to learn about available services that may address challenges they face in caring for the adoptive child. This could make dissolutions of adoptions less likely to occur.

The bill requires the CBC to document:

- The number of times it attempted to contact the adoptive family and whether those attempts were successful;
- The types of post-adoption services that were requested by the adoptive family and whether the CBC provided the requested services to the adoptive family; and
- Any feedback the CBC received relating to the quality or effectiveness of post-adoption services that were provided.

The bill also requires the CBCs to report annually to DCF on the outcomes achieved and make recommendations for improvement under this section.

### Adoption Recognition Awards

The bill creates s. 409.1666, F.S., to require the Governor to select and recognize one or more individuals, families, or entities that have made significant contributions towards efforts to find children in care permanent homes through adoption. The department is required to create categories and criteria for the awards and seek nominations of potential recipients in each category.

The bill specifies that the direct support organization established with the Governor's Office of Adoption and Child Protection may accept donations to be given to award recipients and may provide other tokens of recognition. However, currently, the Office has not established a direct support organization.<sup>49</sup>

### Education of Foster Children

The bill amends ss. 39.0016(2) and 409.145(2), F.S., to support the child's educational success and ensure that child's educational needs are met. The bill requires DCF, district school boards and other local educational entities, CBCs, and caregivers to ensure that the child is enrolled in school or the best

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<sup>49</sup> S. 39.001, F.S.  
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educational setting that meets the child's needs. The bill states a preference to maintain the educational stability of the child, unless it is not in the child's best interest. In that case, other options may be considered, including private school, virtual school, and home schooling.

The bill prohibits DCF from showing prejudice against caregivers who desire to educate at home any children placed in their home through the child welfare system; it amends s. 63.042, F.S., to disallow prohibiting a person from adopting solely because he or she desires to educate the child at home.

#### Intercountry Adoptions

The bill amends s. 409.175, F.S., to require Florida licensed child-placing agencies that conduct intercountry adoptions to comply with certain federal requirements. Specifically, agencies must meet the U.S. Department of State requirements for accreditation or supervision; conduct intercountry adoptions involving Hague Convention countries in accordance with federal regulations; and maintain certain records, such as the child's family and medical history and translated legal documents.

#### Adoption by Homosexuals

The bill deletes the statutory prohibition on adoptions by a person who is homosexual.<sup>50</sup>

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

See Fiscal Comments.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

None.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The bill will provide financial incentives to CBCs and their subcontractors for specified achievement and cash benefits to state employees who adopt children who are from the child welfare system.

### **D. FISCAL COMMENTS:**

The CBC incentive program and state employee adoption benefit payments are contingent on available funding. The bill does not include an appropriation to fund these payments.

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<sup>50</sup> This prohibition was declared unconstitutional by the Florida Third District Court of Appeal in Florida Department of Children and Families v. Adoption of X.X.G., 45 So. 3d 79, 91 (Fla. 3d DCA 2010).

To the degree that the newly adopting families are provided Maintenance Adoption Subsidies, increases in adoptions from the child welfare system will lead to an increased state obligation to pay such subsidies. It is unknown how many additional adoptions will occur due to this bill.

While the Florida Safe Families Network (FSFN) child welfare information system has the data necessary to calculate many of the measures required by the bill, other measures might require FSFN enhancements to allow data collection. According to DCF, the FSFN work estimate related to these changes is 2,441 hours of effort at a cost of \$268,510. This includes changes necessary to the web pages and all underlying components, including business logic and database changes, changes to the reporting environment to include the information, and modifications to system documentation.

DCF states that it will require an additional FTE to implement the employee adoption benefit, at a recurring cost of \$71,762. The FTE would be used to establish rules, develop operating procedures, and process all incoming applications.<sup>51</sup>

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<sup>51</sup> Florida Department of Children and Families, *Senate Bill 320 Analysis* (Jan. 27, 2015) (on file with the House Health & Human Services Committee).