

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB HHSC 15-01 Adoption and Foster Care
SPONSOR(S): Health & Human Services Committee; Brodeur
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Health & Human Services Committee		Brazzell	Calamas

SUMMARY ANALYSIS

PCB HHSC 15-01 makes three additions to statutes to improve the adoption of children from foster care.

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 (CBC's) for achieving specified adoption performance standards. CBC's provide adoption-related services in the state pursuant to contracts with the Department of Children and Families (DCF). The new adoption incentive program would require DCF to conduct a baseline assessment of CBC adoption performance regarding such factors as the length of time children have been waiting for adoption; the length of time to complete an adoption; and feedback from prospective adoptive families, adoptive families, adoptees, children within the child welfare system, and stakeholders. The bill requires DCF to then establish measurable outcome targets for performance by each CBC and negotiate incentive payments to be paid to CBC's upon meeting these targets.

The bill also re-creates a program to provide an additional 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 The program was originally created in 2000 and provided employee adoption benefits until it was repealed in 2010.

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 through a variety of means, including participating in events to recognize and celebrate adoptive families and adopted children. 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. Recognition awards will be collected by the Office's direct support organization, authorized by current law.

The fiscal impact is indeterminate and is contingent on appropriations.

The bill has an effective date of July 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Child Welfare System Adoptions

In Florida, the Department of Children and Families (DCF) provides child welfare services.¹ Statute requires child welfare services, including adoption services, to be delivered through community-based care (CBC) lead agencies contracted by DCF.² For example, CBC's 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.³

During FFY 2013-14, 3,415 adoptions of children within the child welfare system were finalized in Florida. Over the last 6 federal fiscal years, the number of finalized adoptions has ranged from 2,945 to 3,870 annually.⁴

	FFY 2008	FFY 2009	FFY 2010	FFY 2011	FFY 2012	FFY 2013
Foster Child Adoptions	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%) or foster parents (27.25%). Recruited parents comprised 22.47% of adoptions.

As of June 30, 2014, 3,031 children had had their parents' 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. Age information is available for 658 of these:

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

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

- 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%).⁵

¹ s. 20.19(4)(a)3., F.S.

² s. 409.986(1), F.S.

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

⁴ 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. (last visited Feb.16, 2015).

These statistics highlight the predominance of older children waiting for adoption. These 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 the department or to a licensed child-placing agency; and
- Who has established significant emotional ties with his or her foster parents or is not likely to be adopted because he or she is:
 - Eight years of age or older;
 - Developmentally disabled;
 - Physically or emotionally handicapped;
 - Of black or racially mixed parentage; or
 - A member of a sibling group of any age, provided two or more members of a sibling group remain together for purposes of adoption; and
- For whom a reasonable but unsuccessful effort has been made to place the child without providing a maintenance subsidy, except when the child is being adopted by the child’s foster parents or relative caregivers.⁶

In federal fiscal year (FFY) 2013, 93.4% of children adopted from the child welfare system in Florida had special needs.⁷

Adoptions are intended to be permanent. However, disruptions (where an adoption placement terminates before finalization) and dissolutions (where adoptive parents’ rights are terminated and the child returns to foster care).⁸

The nature of the experiences had by 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.⁹ 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 and there is a 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 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.¹⁰

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.¹¹ A major provision of ASFA related to adoption 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.¹²

⁵ 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. (last visited Feb. 16, 2015).

⁶ s. 409.166, F.S.

⁷ 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).

⁸ Florida Department of Children and Families. *Senate Bill 320 Analysis* (Jan.27, 2015) (on file with the House Children, Families and Seniors Subcommittee). DCF does not currently track disruptions.

⁹ 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.

¹⁰ 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. (last visited Feb. 16, 2015).

¹¹ Pub. L. No. 105-89.

¹² *Id.*

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 decade and a half. 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 2009.¹³

The funding for the program has been reauthorized every 5 years.¹⁴ With each reauthorization came changes in the how incentive amounts were determined. For example, in the 2003 and 2008 reauthorizations of the incentive fund, Congress provided an additional incentive to encourage states to increase the adoptions of “older” children (defined as a child nine years of age or older) who tend to be harder to place in adoptive families. 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.¹⁵

Since 2008, Florida has been one of the primary recipients of those incentives, second only to Texas.¹⁶

	FFY 2008	FFY 2009	FFY 2010	FFY 2011	FFY 2012	FFY 2013
Incentives Earned	\$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.¹⁷ 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.¹⁸

Prospective Adoptive Parents’ Attitudes toward Adoption

The Dave Thomas Foundation for Adoption conducted a survey in 2013 to assess attitudes about adopting from foster care. For individuals who had considered adopting a child, the top concerns were:

- Coping with the paperwork and bureaucracy involved (83%),
- Being able to pay for the adoption (82%),
- Availability of adequate support/services after adoption (80%),
- Being sure that the birth parents could not take the child back (79%),
- Having the financial resources needed to educate the child (77%),
- The cost of raising the child to adulthood (74%), and
- Dealing with the public social service agency or other adoption agencies (74%).¹⁹

¹³ 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. (last visited Jan. 31, 2015).

¹⁴ 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).

¹⁵ 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).

¹⁶ 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. (last visited Feb. 16, 2015).

¹⁷ *Id.*
¹⁸ Florida Department of Children and Families. *Senate Bill 320 Analysis* (Jan. 27, 2015) (on file with the House Children, Families and Seniors Subcommittee).

¹⁹ Dave Thomas Foundation for Adoption, *National Foster Care Adoption Attitudes Survey*, 2013, available at <https://www.davethomasfoundation.org/about-foster-care-adoption/research/read-the-research/> (last visited Feb. 16, 2015).

Adoption Benefits for Parents Adopting Children from Foster Care

Maintenance Adoption Subsidy

Under s. 409.166, F.S., DCF pays an annual Maintenance Adoption Subsidy to parents who adopt “special needs” children through the child welfare system. 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.²⁰

Medical Assistance

Each child qualifies for Adoption Assistance Medicaid 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. Medicaid is terminated at age 18 except for qualified children adopted at age 16 or 17, who are eligible for Medicaid until age 21.²¹

DCF also provides post-adoption medical assistance for medical, surgical, hospital, and related services needed as a result 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.²²

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.²³

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 provide workforce education programs, Florida College System institutions, and state universities. The exemption remains valid until the student reaches 28 years of age.²⁴

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.²⁵

State Employee Adoption Benefit

²⁰ s. 409.166, F.S.

²¹ Email from Nicole Stookey, Deputy Legislative Affairs Director, DCF, RE: Adoption Benefits for Children Adopted From Foster Care, (Feb. 10, 2015).

²² s. 409.166, F.S.

²³ *Id.*

²⁴ Section 1009.25, F.S.

²⁵ s. 409.1451, F.S.

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.²⁶ This allowed for 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.²⁷ 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.²⁸

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.²⁹

The program was funded for 10 years before being repealed in 2010.³⁰

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).³¹

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 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.

²⁶ s. 110.152, F.S. (2000). Chapter 2000-241, Laws of Florida.

²⁷ s. 110.52, F.S. (2001). Chapter 2001-256, Laws of Florida.

²⁸ s. 409.1663, F.S. (2007). Chapter 2007-119, Laws of Florida.

²⁹ Staff Analysis, CS/HB 803 (2007).

³⁰ Chapter 2010-158, Laws of Florida.

³¹ Child Welfare Information Gateway, *Employer-Provided Adoption Benefits*, 2011.

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 direct-support organization is to support the office. However, this DSO has not been established.

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.
- First Lady Scott made a video encouraging Floridians to consider adopting a child from foster care.³²
- 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 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 Nov. 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, 2014.³³

Effect of Proposed Changes

The bill 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 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 CBC adoption-related performance. After this assessment, DCF must establish measurable outcome targets for performance by agreement with each CBC and negotiate incentive payments to CBC's for meeting these targets.

³² Available at www.adoptflorida.org/videos.shtml. (last visited Feb. 16, 2015).

³³ 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. (last visited Jan. 31, 2015).

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 could have been prevented by the CBC;
- The time required to complete each phase of the adoption process;
- 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
- 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 bill also creates s. 409.1664, F.S., to reestablish an adoption benefit program within DCF for state employees who adopt children from the foster care system. 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.

Eligible 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 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 also provide other tokens of recognition. However, currently no direct support organization has been established.³⁴

B. SECTION DIRECTORY:

Section 1: Creates s. 409.1662, F.S., relating to the adoption incentive program.

Section 2: Creates s. 409.1664, F.S., relating to adoption benefits for qualifying adoptive employees of state agencies.

Section 3: Creates s. 409.1666, F.S., relating to annual adoption achievement awards.

Section 4: Provides an effective date of July 1, 2015.

³⁴ s. 39.001, F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Expenditures are contingent on appropriations. 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 community-based care lead agencies 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 appropriations. The bill does not include appropriations to fund these provisions.

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 may 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.³⁵

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.

³⁵ Florida Department of Children and Families. *Senate Bill 320 Analysis* (Jan. 27, 2015) (on file with the House Children, Families and Seniors Subcommittee).

B. RULE-MAKING AUTHORITY:

The bill grants DCF authority to adopt rules to administer the benefit program for state employees.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES