

Florida's Children First 2020 Legislative Update

Child Welfare and Related Laws



What Passed

Big Three, Little Eight

- Child Welfare Bill
- DCF Accountability Act
- Jordan's Law
- Adoption
- Service Members
- Children's Health Care
 - School Based Medicaid
 - Kidcare
 - Mental Health
- Donna's Law

Child Welfare HB 1105

Child Welfare (HB 1105 Tomkow/Simpson)

- Requires Judicial Training on Secure Attachment, Placement Stability and Impact of Trauma on child Development. §25.385.
- Early Childhood Courts §39.01304.
 - Permits circuit courts to create early childhood courts.
 - Sets out factors for the court's consideration.
 - Requires the Office of State Court Administrator to contract for the evaluation of early childhood courts.
 - No appropriation for community coordinators or statewide training, which was part of separate bill

Child Welfare HB 1105

- **Court to be Notified of Hotline calls in Open Cases.** §39.301(1)(a).
 - DCF required to notify the court when the Hotline accepts a call for investigation concerning a children over whom the court has jurisdiction.
- **Shelter or Dependency Petitions in Open Cases with Children at Home.** §39.301(9)(a)6.d.
 - Permits DCF to file a shelter or dependency petition without a new child protective investigation or the agreement of the CPI if
 - “the child is unsafe but for the use a safety plan” and
 - the parent has not “sufficiently increased protective capacities” within 90 days of the transfer of the case from CPI to the lead agency.

Child Welfare HB 1105

Speed Time for Foster Care Licensing

- §39.0138(1) – requires DCF to complete the child welfare and criminal history background checks within 14 days of receiving the results – unless additional info is required to complete processing.
- §409.175 -requires:
 - CBC/ provider to complete foster parent licensing within 30 days of licensing study.
 - DCF to approve or deny a license within 10 days of receipt of completed application, and no later than 100 days after the applicant completes orientation.

Child Welfare HB 1105

Speed Adoptive Parent Process (HB 1105 Tomkow/Simpson)

- §63.092(3) Preliminary home study must be completed within in **30 days** of initiation if the child is in DCF custody.
- §63.093 – Creates a new statute for child welfare adoption process.
 - DCF/CBC must **respond** to inquiries from prospective adoptive parents by referring them to a DCF approved adoptive parent training **within 7 business days**.
 - Prospective Adoptive Parent Must
 - Successfully complete adoptive parent training.
 - Complete a DCF adoption application.
 - DCF/CBC must do a home study and complete a preparation process with the prospective adoptive parent.
 - When both are done, the entity shall determine whether applicant is appropriate to adopt.
 - DCF/CBC must **approve or deny within 14 days**.

Child Welfare HB 1105

Adoption Process (HB 1105 Tomkow/Simpson) –

- §63.093 – Adoptive Parent Training Not Required
 - If the person is a licensed foster parent, relative or non-relative caregiver who
 - had training within last 5 years; or
 - has had the child in the home more than six months and understands the challenges and parenting skills needed for the child.

Child Welfare HB 1105

- **Post disposition Change of Custody** 39.522
 - Adds ten criteria for court to consider in determining whether change of legal custody or placement is in the child's best interest.
 - child's age
 - physical, mental and emotional health benefits of staying or moving
 - stability and longevity of placement
 - established bond with current and proposed caregiver
 - reasonable preference of the child
 - recommendation of current caregiver
 - GAL recommendation
 - relationship with sibling
 - likelihood of permanency in current or proposed placement
 - other relevant factors

Child Welfare HB 1105

- **Post disposition Change of Custody – Removal from Parents** 39.522(4).
 - Add four factors for the court to consider whether to remove a child who was reunified with a safety plan or left at home under a safety plan.
 - Circumstances of initial removal and subsequently identified issues;
 - length of time child was placed at home with in-home safety plan;
 - parent or caregiver protective capacities;
 - level of increase of protective capacities since the child was placed at home.
 - It also requires the court to consider whether the permanency goal should be changed.

Child Welfare HB 1105

- **Continuation of Jurisdiction after Reunification**

39.701(1)(b)2.

- Requires the court to maintain jurisdiction – even after 6 months post reunification if a safety plan remains necessary for the child to reside safely at home.

- **Lead Agency Provision of Direct Services** §409.988

- Permits lead agencies to provide more than 35% of services directly by demonstrating a need to exceed the threshold.
- Community Alliances to review the request and issue a recommendation to DCF.

Child Welfare HB 1105

Parenting Partnerships

Parenting Partnerships 409.1415

- DCF & CBCs shall develop and support relationships between caregivers and birth or legal parents of children in out-of-home care, to the extent that it is safe, and in the child's best interest:
 - Facilitate telephone communication between parent and caregiver asap after placement
 - Facilitate in-person meeting asap after placement
 - Develop and support plan for parent to participate in medical educational appointments and extracurricular activities
 - Facilitate participation by caregiver in visitation with parent.
 - Involve caregiver in planning meetings with parent.
 - Develop and implement effective transition for the child's return home or other placement change
 - Support continue contact between caregiver and child after child returns home or moves to other permanent placement

Child Welfare HB 1105

Parenting Partnerships

Parenting Partnerships 409.1415

- Requires caregivers, parents, DCF and the CBC to “work cooperatively in a respectful partnership” they are to:
 - Interact and communicate professionally, share relevant information promptly and respect confidentiality.
 - Participate in developing the case plan, with child if appropriate.
 - Work together to implement the plan.
 - Keep caregiver involved by letting them participate in team meetings and court hearings; giving them timely notice and offer alternative methods of participation if they can’t be physically present.

Child Welfare HB 1105

Parenting Partnerships

Parenting Partnerships 409.1415

- Requires caregivers to provide and DCF/CBCs to support excellent parenting:
 - Loving commitment to child and child's well-being
 - Appropriate supervision and positive methods of discipline
 - Encouragement of child's strengths
 - Respect for child's individuality, likes and dislikes
 - Providing opportunities to develop interests and skills
 - Being aware of the impact of trauma on behavior
 - Facilitating equal participation of child in family life
 - Involving child within his or her community
 - Committing to enable the child to lead a normal life

Child Welfare HB 1105

Parenting Partnerships

Parenting Partnerships 409.1415

- Requires placement with a caregiver who
 - Has the ability and willing to accept responsibility to care for the child, Is willing to learn about and respect child's culture, religion, ethnicity, physical or psychological needs, unique circumstances and family relationships. DCF/CBC must provide caregiver with all information. (existing law)
- Caregiver must have access to and take advantage of all training needed to improve skills in parenting child who experienced trauma, meet child's special needs and work effectively with all other agencies and entities
- DCF/CBC must provide caregiver with services and supports needed to provide quality care.

Child Welfare HB 1105

Parenting Partnerships

Parenting Partnerships 409.1415

- Incorporates existing Quality Parenting law provisions from 409.145 – regarding removal of children from the caregiver and requirement for transition unless removal is an emergency.
- If case plan includes reunification then DCF/CBC and caregiver must work with parents to improve their ability to care for and protect the child and provide continuity.
- Carries over and expands on roles of caregiver from previous 409.145(2)(a). But adds duty of DCF/CBC to support and facilitate caregiver in those items.
 - Specifies DCF/CBC may not retaliate against a caregiver for advocating for the child. (2) (b)(12)
- Case manager and supervisor to mediate disputes between caregiver and parent.
- Group Home staff that work with kids must meet same requirements as Level II foster parent.

Child Welfare HB 1105

Parenting Partnerships

Case Plan Development §39.6011

- Case plan must describe the responsibility of parents and caregivers to work together, when it is safe.
 - Parents and caregivers to notify case manager if “ineffective communication takes place that negatively impacts the child.”

Judicial Review §39.701(2)

- Requires the Judicial Review Social Studies Report include a section on what the caregiver reports on the well-being of the child, the impact of services and the relationship with the child’s parents. §39.701(2)(a)6.
- Requires the court to determine whether the parents and caregivers have a productive relationship with meaningful communication and mutual support. §39.701(2)(a)14.
- Effective July 1, 2020

Jordan's Law

Jordan's Law (HB 43 Latvala/Rouson)

- Training on Head Trauma
 - Recognition of and responses to head trauma and brain injury in a child under 6 years of age.
- Who must be trained:
 - §25.385 dependency judges
 - §39.303 child protection teams and sexual abuse treatment teams
 - §39.820 Guardian ad Litem
 - §39.402 Child Protective Investigators and DCF CLS attorneys
 - §409.988 Out of home Caregivers
 - §943.17298. Law Enforcement Officers

Jordan's Law

Jordan's Law (HB 43 Latvala/Rouson)

- DCF & Law Enforcement Communication process. §39.0142

- FDLE to advise local law enforcement that a person they are investigating is a parent or caregiver who is the subject of a child protective investigation.
- Local law enforcement to notify the Abuse Hotline if an interaction with a parent gives them concerns about the child's well-being.
- The Hotline must in turn advise the CPI; or the case manager and CLS attorney after adjudication.

Jordan's Law

Jordan's Law (HB 43 Latvala/Rouson)

§409.998(3) Allows CBC Lead Agencies to offer:

- “intensive family reunification services that combine child welfare and mental health services for families with dependent children under 6 years of age.

Jordan's Law

Jordan's Law (HB 43 Latvala/Rouson)

- **Third Party Credentialing Agencies** – §402.40.
 - Must review findings in critical incidents and death of a child to determine whether certified child welfare personnel complied with the agency's code of ethical and professional conduct and disciplinary procedures.
 - Review only permitted if a complaint about a certified person is filed by an outside party.
 - Florida Certification Board Certifies:
 - Certified Child Advocate Manager (GAL CAM)
 - Certified Child Welfare Case Manager
 - Certified Child Welfare Protective Investigator
 - Certified Child Welfare Licensing Counselor
 - Child Protection Team Medical Provider
- Implementation Reporting
 - FDLC and DCF to submit quarterly reports on implementation to the Governors office and the Legislative Appropriations Committees until all systems are in place.
- Takes effect July 1, 2020

Accountability: DCF Generally

DCF Accountability Act (SB 1326 Simpson)

- Creates a DCF Office of Quality –agency-wide §407.715
 - Create performance standards and metrics for
 - DCF, all contracted service providers: law enforcement, CBC lead agencies, Managing Entities, attorneys
 - Recommend initiatives to correct programmatic and systemic deficiencies.
 - Report systemic or persistent failure to meet standards and make recommendations for corrective action to DCF Secretary.

Accountability: Child Welfare

DCF Accountability Act (SB 1326 Simpson)

- DCF must create a Statewide Accountability System for Child Welfare §409.996
 - Assess overall health of child welfare system
 - Quality Measurement System
 - Defined levels of quality that includes CPI, Lead Agency and Attorneys
 - DCF and CBCs to use the information to provide enhanced quality
 - Report to the Governor, and Legislature by December 1.

Accountability: Sheriff

DCF Accountability Act (SB 1326 Simpson)

- Accountability for Sheriff CPIs §39.3065(3)
 - All must collaborate with DCF to monitor program performance on an on-going basis
 - Sheriffs with grant agreements to provide CPI must adopt child welfare practice model and be measured by the same performance measures as DCF CPI.
 - Sheriffs that conduct CPI per statute, do not have to adopt the child welfare practice model and will not be held to performance metrics specific to the model: Pasco, Manatee, Broward, and Pinellas

Accountability: Attorneys for DCF

DCF Accountability Act (SB 1326 Simpson)

- **Accountability for Attorneys Representing DCF.**

§409.996(18)

- All attorneys (included contracted attorneys) must adopt the child welfare practice model.
- All attorneys must collaborate with DCF to monitor performance
- Performance evaluation shall be standardized statewide for all attorneys.
 - Random cases, peer reviewed
- DCF to publish annual report on performance quality, outcome measurement attainment and cost efficiency of contracted attorney services. Report to include performance of DCF attorneys.

Accountability: CBC Lead Agencies

DCF Accountability Act (SB 1326 Simpson)

- Revises Lead Agency Monitoring §402.8305(4)(e)
 - Removes prohibition on DCF monitoring more than once a year.
 - Removes prohibition on DCF monitoring that duplicates national accreditation surveys
- Accountability for Lead Agencies. §409.996
 - Require lead agencies to accept technical assistance
 - Revises financial penalties so that if imposed they allocate funds from administrative costs to direct care for children

State of Hope Act

“State of Hope Act” - sections 1, 3, and 6 of DCF
Accountability Bill (SB 1326 Simpson)

- Community Alliances (§20.19)
 - Identify and encourage development of faith and community-based programs, services and assistance.
 - Add a representative of such organization to alliance.
- Lead Agency (§409.988)
 - Designate employee to serve as liaison with Community Alliance and faith and community-based organizations.
 - Liaison to ensure lead agency staff and subcontractors are informed of the services and assistance those entities offer.

State of Hope Act

“State of Hope Act” - sections 1, 3, and 6 of DCF
Accountability Bill (SB 1326 Simpson)

- CPI – Policies and Programs to mitigate and prevent secondary stress and burnout. §39.4042(3)
 - Staff recognition, support after critical incidents, training in self care, training in supervisory support and monitoring and responding to employees

Workforce Development

DCF Accountability Act (SB 1326 Simpson)

- Curriculum Development §1004.615. Florida Institute of Child Welfare and FSU School of Social Work to:
 - Develop curriculum to enhance knowledge and skills regarding child welfare practice. To be shared with any school that wants it.
 - Develop a “career long professional development curriculum.”
 - Create a consulting program to enhance workforce culture, supervision and management practices.
- Career Ladder §1004.615(10).
 - DCF and Florida Institute of Child Welfare are to create an expanded career ladder for child protective investigators.
- Takes Effect July 1, 2020.

Adoption

Adoptions Benefits (HB 61 Committee/Bean) §409.1664

- Expands state employee adoption benefit to: veterans, service members, and contract employees of the state, including “other-personal-services”.
- Takes Effect July 1, 2020.

Adoptions Records (HB 89 Committee/Rader) §63.612

- Permits the parties to adoption proceedings to authorize release of their own information without court order.
 - Minor children must have the written consent of their adoptive parents.
 - Can obtain own records with the name and identity of all other parties redacted;
 - Can obtain the name or identity of any other party who authorizes disclosure.
 - Can still obtain court order if party doesn't authorize
- Takes Effect July 1, 2020.

Service Members Relief Act

Service Members Relief Act (HB 197 Committee/Bean)

- §39.01 Amends the definition of abandonment to state that absence of a parent due service (deployment or prospective deployment) in the military cannot be considered as a factor in determining abandonment.
- §39.0137 Adds the federal Servicemembers Civil Relief Act as a law that Chapter 39 does not supersede. Requires DCF to follow federal law.
- Servicemembers are: Members of Armed Forces on active duty or state active duty, Florida National Guard, United States Reserve Forces.
- Takes Effect July 1, 2020.

Temporary Custody of Minor Children by Extended Family

Temporary Custody of Minor Children by Extended Family

(SB 124 Bean/Roach). – §751.01 et. seq

- Permits parents to select **fictive kin** (close family friends) to take temporary custody of their children.
 - Fictive Kin is defined in §39.01
- Adds Best Interest Considerations
 - Adds to purpose section : “Protect the welfare of minor children by allowing transitions of custody consistent with their best interest.”
 - Permits the petition for temporary custody and the order terminating temporary custody to include provisions related to the child’s best interest.
 - Specifically references transition for children who return to their parents.
 - Other best interest considerations can be included.
 - Court can impose reasonable transition conditions if the initial finding was that the parent was unfit and the child has been in temporary custody for an extended period of time.
- Takes Effect July 1, 2020.

Children's Health Care

School Based Medicaid (HB 81) §409.9071

- Permits schools to obtain reimbursement for services all Medicaid eligible students. Previously schools could only be reimbursed for students with IEPs.
- Types of services covered
 - Physical therapy;
 - Occupational therapy;
 - Speech therapy services;
 - Behavioral health services;
 - Mental health services; and
 - Transportation services.
- Takes Effect July 1, 2020

Children's Health Care

Florida Kidcare (SB 348 Bean/Pigman) §409.815

- Removes the lifetime cap of \$1 million on covered expenses.
 - Effective upon becoming a law.
 - Signed into law on April 8, 2020

Children's Mental Health

Children's Mental Health (HB 945).

This bill seeks to create a coordinated system of care for addressing the serious mental and behavioral health concerns.

- Integrate services of child-serving systems.
- Mobile Response Teams (MRT) deployed as part of the system of care.
- Schools must deescalate and contact MRT before calling law enforcement to initiate Baker Act
- DCF and AHCA to study highest users of crisis stabilization and evaluate quality of care provided to them.
- AHCA to test the Medicaid system to make sure that listed providers are available and patients have access to providers.

Children's Mental Health

Children's Mental Health (HB 945).

§394.495 Managing Entities must create Mobile Response Teams (MRT) as part of their system of care

- Immediate, onsite, behavioral health crisis services
- Children and young adults to age 25 who
 - Have an emotional disturbance;
 - Are experience acute mental or emotional crisis;
 - Experience escalating emotional or behavioral symptoms that impair ability to function in family, living situation, or community; or
 - In the child welfare system and have high risk of placement instability.

Children's Mental Health

Children's Mental Health (HB 945).

- §394.495(7)(b) Mobile Response Teams will:
 - Triage new requests and respond in-person within 60 min. if prioritized.
 - Provide behavioral health crisis-oriented services that meet the needs of the young person.
 - Provide evidence-based practices to help deescalate and respond to behavioral challenges.
 - Screen, assess and refer to community services.
 - Coordinate care by facilitating transition to community services.
 - Ensure informed consent and confidentiality.
 - Promote information sharing and use of technology.
 - Coordinate with the Managing Entity and other partners to facilitate continuity of care.

Children's Mental Health

Children's Mental Health (HB 945).

- §394.4955 Coordinated system of care (new section)
 - Managing Entity to lead a plan to create a coordinated system of care.
 - Agencies and stakeholders to be involved
 - Plans due January, 2022.
 - Plans to be implemented January, 2023.
 - Create integrated service delivery approaches.
 - Identify gaps in the array of services and include in a needs assessment.
- §409.175 Foster parent training to include information on MRTs.
- §409.988 CBCs to provide all caregivers with MRT contact info.
- §1002.20 K-12 Student and Parent Rights & 1002.33 Charter Schools
 - Before a principal or his or her designee contacts a law enforcement officer, he or she must verify that de-escalation strategies have been utilized and outreach to a mobile response team has been initiated unless the principal or the principal's designee reasonably believes that any delay in removing the student will increase the likelihood of harm to the student or others.

Children's Mental Health

Children's Mental Health (HB 945).

- DCF and AHCA to
 - Assess the quality of care provided to users of crisis stabilization units
 - Review current standards of care and compare them to other state and national standards
 - Make recommendations for improvement to standards.
 - Look at how they gather & assess information, coordinate with other providers, create discharge plans to avoid or reduce further crisis stabilization services
 - Report by November 15, 2020
- §409.967 Medicaid Managed Care Accountability.
 - Requires AHCA to continuously test the provider network databases to confirm providers are accepting patients and that patients have access to behavioral health services.
- Takes Effect July 1, 2020

Sexual Battery on a Minor

Donna's Law (HB 199)

Removes statute of limitations on prosecutions for sexual battery when the victim is younger than 18 – for offenses committed after July 1, 2020.

- Takes Effect July 1, 2020



What Failed

What Failed?

- **Bills that Expand Definition of Harm in Ch. 39.**
 - SB 158 / HB 533 – child safety restraints
 - SB 232 / HB 413– electronic cigarettes, automobile safety restraints and leaving children in autos.
- **Child Care Subsidies for Foster Parents.** (HB 193 Roth/ SB 354 Montford).
- **Early Childhood Courts** (SB 236 Book, HB 449 Mariano) though some provisions were included in HB 1105.
- **Privileged Communication** (SB 238 Book) -would have added clergy privilege to those specifically not applicable in child welfare cases.

What Failed?

- **Foster Youth Bill of Rights** (SB 496 Book / HB 1045 Gottlieb Diamond). Collects existing rights into a single source and required that youth be educated on them. Also placed Ombuds position in statute
- **Restitution for Juvenile Offenders** (HB 1225/ SB 1880) Bill would have exempted DCF and foster parents from responsibility for restitution.
- **Diversion Expunction** (SB 1292 Perry) would have permitted juvenile diversion expunction for any offense, including felony offenses.
- **Temporary Care of Child** (SB 1348) would have codified the Safe Families non-licensed care model for volunteer respite families.

What Failed?

- **DCF Bill** (SB 1548 Perry). This bill had provisions relating to paternity, adoption, deceased parents, change of placement
- **Support for Incapacitated Adult Children** (SB 1648 / H 965)
- **Child on Child Sexual Abuse, Animal Abuse** (SB 7000).

Show me the Money!

The information on the next 3 slides was provided by DCF to the Child Welfare Task Force on June 26, 2020

Appropriations HB 5001

- \$18,000,000 (\$6,840,000 in OCW and \$11,160,000 in Community SAMH) to fund the implementation of **evidence-based prevention services** that meet the requirements of the Family First Prevention Services Act.
- \$11,948,668 to allocate funding received for Community Based Care (CBC) lead agency core services using an objective, workload-based methodology. The purpose of developing the new methodology is to determine the **optimal funding level for the CBCs** so they may expand case management capacity to reduce caseloads and expand service array for children and their families.
- \$8,087,040 to CBC lead agencies for **safety management services** which are intended to prevent the removal of children from their homes.
- \$5,000,000 to fund CBC lead agency **risk pool** to mitigate operating deficits that may occur from unanticipated events.

(Info from DCF provided on 6/26/20)

Appropriations HB 5001

- \$1,000,000 to provide funding from the Child Abuse Prevention and Treatment Act (**CAPTA**) Grant that will be utilized for initiatives and programs that support the development and implementation of Plans of Safe Care for substance affected infants and their families.
- \$20,044,652 to fund Maintenance Adoption Subsidy (**MAS**) and other adoption assistance to enable families to cover the costs of post-adoption services. This funding will support approximately 4,200 adoption finalizations.
- \$784,765 to fund a foster parent cost of living adjustment (**COLA**) to provide foster parents an annual cost of living increase; this request will support the recruitment and retention of foster parents.
- \$7,592,655 to fund the Title IV-E Guardian Assistance Program (**GAP**) and foster care board payments for relatives and nonrelatives.
- (Info from DCF provided on 6/26/20)

Appropriations HB 5001

- \$4,475,249 to fund the anticipated federal Title IV-E earnings associated with **Path Forward**. This funding will restore the nonrecurring portion of the \$24,018,196 appropriation for FY 2019-2020 that was appropriated to address the funding gap that exists with the expiration of the Title IV-E Waiver.
- \$8,235,052 to fund two 2-year **pilot projects** to improve child welfare services in the Sixth (Pasco and Pinellas) and Thirteenth (Hillsborough) judicial circuits.
- \$2,963,362 to fund the **cloud** maintenance, operations, and management services costs for the Florida Safe Families Network (FSFN).
- \$1,863,700 to fund the child welfare predictive data analytics initiative (**ROA**) while building department capacity to house, manage, enhance, and effectively visualize the outputs of the risk model to front-line child welfare practitioners.
- To increase **child protective investigators base rate of pay** with a competitive pay adjustment of a 10.0 percent increase to each CPI and Senior CPI, and a 5.0 percent increase to each CPI Supervisor and CPI Field Support Consultant as of June 30, 2020.
- (Info from DCF provided on 6/26/20)



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