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'Barahona Relief Act' bills would limit monetary awards for abuse victims



Child abuse investigation of the Barahona twins: DCF's "ugly past"

Interactive timeline of the abuse and neglect Nubia and Victor Barahona faced since birth, as told through DCF records and Palm Beach Post investigative reports. [Share condolences](#) / [Photos of the case](#) / [Full coverage](#)

By Pat Beall

Palm Beach Post Staff Writer

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Outraged critics are calling it the Barahona Relief Act: Twin bills winding through Tallahassee that would cap damages in lawsuits brought against private groups overseeing the care of foster children, regardless of negligence.

"It's appalling," said Howard Talenfeld, a South Florida attorney who sued the state in two landmark cases - especially coming on the heels of questions raised about how the Department of Children and Families and its private contractor handled the abuse of Nubia and Victor Barahona.

The body of Nubia Barahona, 10, was found last month wrapped in plastic in the back of her adopted father's pickup truck on the side of Interstate 95 in Palm Beach County. Scalded with toxic chemicals, her brother, Victor, was found convulsing on the front seat. The two had been in foster care with the Barahonas prior to their adoption, which was handled by Our Kids Miami-Dade/Monroe Inc., a non-profit private provider of foster care services.

The proposals also would shield the Florida Department of Children and Families from lawsuits filed against private companies hired by the state to place foster children in homes. No lawsuit has been filed in the Barahona case.

However, for at least a year, DCF and providers it hires to handle foster care have been trying to come to an agreement about insurance and civil judgments. The agency is only now looking at the newly proposed legislation, said Joe Follick, a DCF spokesman. Until a staff analysis is finished early next week, "We can't take a position for or against," he said.

Our Kids, which inspected the Barahonas' home several times and provided data used to craft the bill, said that the legislation will remove a hurdle to staying in business: sharply rising insurance liability costs. Only a handful

of insurers write policies to such groups, Our Kids spokeswoman Kadie Black said.

Our Kids received government grants worth \$100 million in 2009. The non-profit has not been turned down for insurance, she said, but premiums have risen by 64 percent to \$191,663 since 2009.

Providers statewide are struggling with similarly rising rates, said Michael Cusick, president and CEO of the Florida Coalition for Children, a statewide umbrella group of private foster care providers. "We're trying to make sure the system isn't bankrupt," he said.

Our Kids, which hired Broward County lobbyist Ronald Book, provided data to help draft the bills, Black said, adding that the Florida Justice Reform Institute, an offshoot of the Florida Chamber of Commerce, wrote the bills. An institute spokeswoman said she was unaware if the group played a role.

The bill lowers the amount of insurance coverage a foster care provider must carry. The state began privatizing foster care in the late 1990s.

Senate sponsor Jack Latvala, R-St. Petersburg, said the bill will help keep insurance costs low for providers. "I'm sure the trial lawyers have stirred you up," he said. "These non-profits are doing a pretty darn good service."

House sponsor Scott Plakon, R-Longwood, could not be reached Thursday for comment.

As written, the bill caps financial awards for pain and suffering at between \$200,000 and \$1 million, depending on how many foster care providers are involved, said Robin Rosenberg, deputy director of Florida's Children First. Economic damages could be capped at \$2 million, she said.

Even capped, the numbers are substantial, Cusick said.

But Talenfeld, president of Children First, argues that, "These caps do not begin to provide a lifetime of care," especially given the fact that the care starts in childhood.

Take the Barahona case. DCF would not release the amount of money spent to date on Victor Barahona's two-week hospital stay, citing patient confidentiality. However, said Rosenberg, "Generally, burns are very difficult to treat and require long-term care. Plainly, the child will have psychological issues as well."

Jorge Barahona faces an attempted-murder charge stemming from the assault on his adoptive son. No charges have been filed in Nubia's death. A DCF-selected panel is reviewing the Barahona case.

The House bill has been forwarded to a subcommittee on health and human services. It should go no further, Rosenberg said. "This is a huge step in the wrong direction," she said.

pat_beall@pbpost.com

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