

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1083 Permanency for Children  
**SPONSOR(S):** Children, Families & Seniors Subcommittee, Trabulsky and others  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1486

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee	16 Y, 0 N, As CS	DesRochers	Brazzell
2) Civil Justice Subcommittee			
3) Appropriations Committee			
4) Health & Human Services Committee			

### SUMMARY ANALYSIS

When child welfare necessitates that the Florida Department of Children and Families (DCF) remove a child from the home, a series of dependency court proceedings must occur to adjudicate the child dependent, place that child in out-of-home care, and achieve a permanency outcome for the child in the form of reunification, a permanent guardian, adoption, or another permanent living arrangement. For young adults who have aged out of foster care, extended foster care is available for a period of time or independent living programs are available to help the young adult transition into adulthood.

PCS for HB 1083 makes the adoption process more efficient and less costly while reducing barriers to permanency. Additionally, the bill enhances protections for children from potentially unsafe placements and expands financial assistance options for children who are adopted or placed in permanent guardianships as younger teens. PCS for HB 1083 addresses the following topics:

Permanency: Makes several changes to streamline permanency by creating a legal process for orphaned children, requiring that a child knows the successor guardian, provides flexibility for service of process in termination of parental rights advisory hearings, ensures safe and appropriate placements, and restricts access to the statewide adoption exchange.

Adoption Proceedings: Shifts judicial review of DCF's decision on an adoption application from a separate administrative process to the dependency court.

Criminal History Checks for Child Placements: Defines the scope of individuals subject to a fingerprint-based background records check for child placements, which will bring the state into compliance with Federal regulations and maintain DCF's expedited access to the Federal Bureau of Intelligence (FBI)'s criminal history records database.

Independent Living Expansion: Expands the criteria for Post-Secondary Education and Support (PESS), Aftercare, and Extended Guardianship and Adoption Assistance Programs, to make it easier for young adults aged 18 to 23 who have been in foster care system to receive benefits as they transition to independence.

The bill has a significant negative fiscal impact on state government and no fiscal impact on local government.

The bill provides an effective date of July 1, 2024.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

#### Florida's Child Welfare System

Chapter 39, F.S., creates the dependency system charged with protecting child welfare. The Florida Legislature has declared four main purposes of the dependency system:<sup>1</sup>

- to provide for the care, safety, and protection of children in an environment that fosters healthy social, emotional, intellectual, and physical development;
- to ensure secure and safe custody;
- to promote the health and well-being of all children under the state's care; and
- to prevent the occurrence of child abuse, neglect, and abandonment.

Florida's dependency system identifies children and families in need of services through reports to the central abuse hotline and child protective investigations. The Department of Children and Families (DCF) works with those families to address the problems endangering children, if possible. DCF's practice model is based on the safety of the child within the home by using in-home services, such as parenting coaching and counseling, to maintain and strengthen that child's natural supports in his or her environment. If the problems are not addressed, the child welfare system finds safe out-of-home placements for these children.

DCF contracts with community-based care lead agencies (CBCs) for case management, out-of-home services, and related services. The outsourced provision of child welfare services is intended to increase local community ownership of service delivery and design. CBCs in turn contract with a number of subcontractors for case management and direct care services to children and their families. DCF remains responsible for a number of child welfare functions, including operating the central abuse hotline, performing child protective investigations, and providing children's legal services.<sup>2</sup> Ultimately, DCF is responsible for program oversight and the overall performance of the child welfare system.<sup>3</sup>

During state fiscal year (SFY) 2022-23, there were a total of 339,728 child abuse reports and child special conditions contacts for potential child abuse and neglect, and 63% percent of those contacts were screened in because they met criteria to trigger an investigation or assessment.<sup>4</sup>

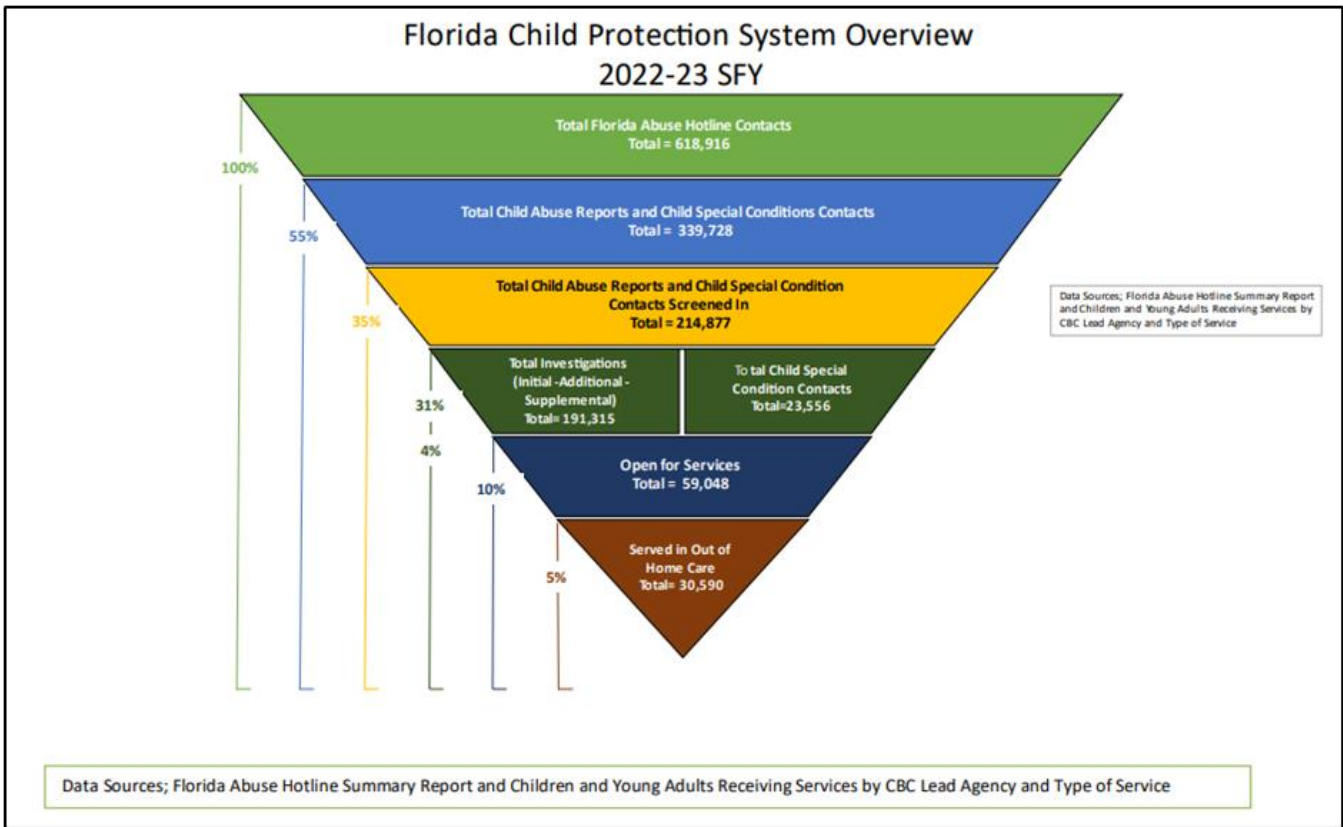
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<sup>1</sup> S. 39.001(1)(a), F.S.

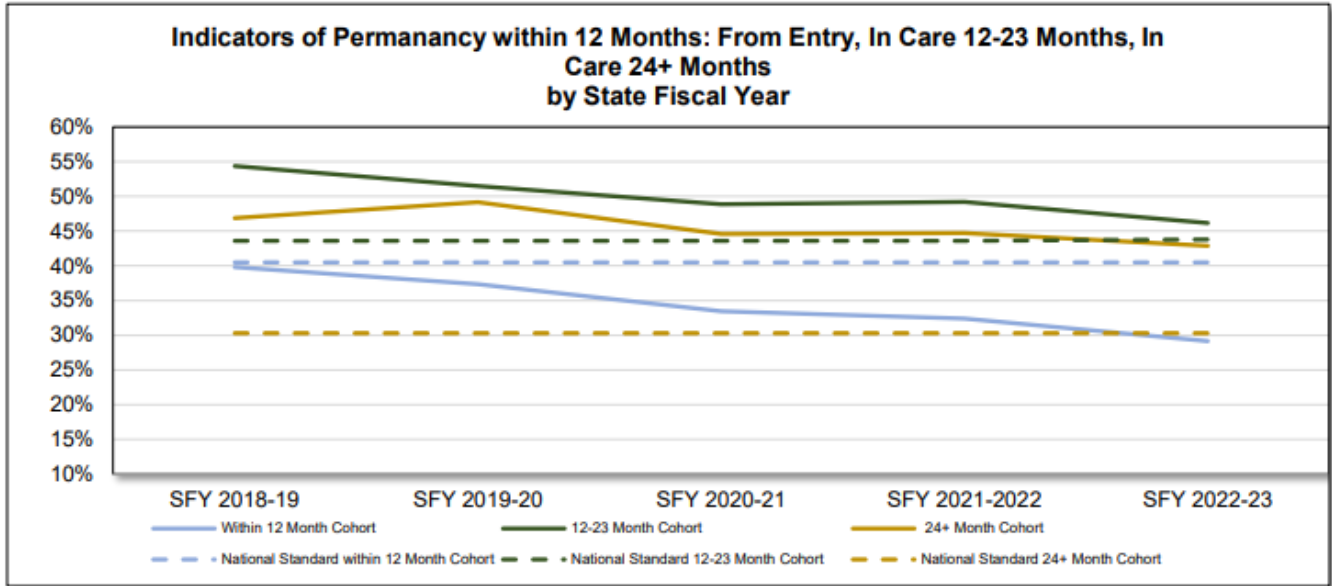
<sup>2</sup> OPPAGA, report 06-50.

<sup>3</sup> *Id.*

<sup>4</sup> Florida Department of Children and Families, *Child Welfare Key Indicators Monthly Report October 2023: A Results-Oriented Accountability Report*, Office of Child Welfare, p. 9 (Oct. 2023), [https://www.myflfamilies.com/sites/default/files/2023-11/KI\\_Monthly\\_Report\\_Oct2023.pdf](https://www.myflfamilies.com/sites/default/files/2023-11/KI_Monthly_Report_Oct2023.pdf) (last visited Dec. 1, 2023).



Also for SFY 2022-23, DCF’s permanency report describes Florida’s performance for three cohorts of children who entered care (children in care less than 12 months; children in care 12-23 months; and children in care 24 months or longer).<sup>5</sup> As the chart below illustrates, Florida’s performance for each cohort generally declined over the past several years, with state’s performance in achieving permanency for children in care less than 12 months declining over 25%.<sup>6</sup>



Dependency Case Process

<sup>5</sup> Florida Department of Children and Families, *Results-Oriented Accountability 2023 Annual Performance Report*, Office of Quality and Innovation, p. 26, (Nov. 21, 2023), <https://www.myflfamilies.com/sites/default/files/2023-11/ROA%20Annual%20Performance%20Report%202022-23.pdf> (last visited Dec. 1, 2023).

<sup>6</sup> *Id.*  
 STORAGE NAME: h1083.CFS  
 DATE: 1/24/2024

When child welfare necessitates that DCF remove a child from the home, a series of dependency court proceedings must occur to adjudicate the child dependent and place that child in out-of-home care. Steps in the dependency process may include:

- A report to the central abuse hotline.
- A child protective investigation to determine the safety of the child.
- The court finding the child dependent.
- Case planning for the parents to address the problems resulting in their child's dependency.
- Placement in out-of-home care, if necessary.
- Reunification with the child's parent or another option to establish permanency, such as adoption after termination of parental rights.<sup>7</sup>

### The Dependency Court Process

Dependency Proceeding	Description of Process	Controlling Statute
Removal	A child protective investigation determines the child's home is unsafe, and the child is removed.	s. 39.401, F.S.
Shelter Hearing	A shelter hearing occurs within 24 hours after removal. The judge determines whether to keep the child out-of-home.	s. 39.401, F.S.
Petition for Dependency	A petition for dependency occurs within 21 days of the shelter hearing. This petition seeks to find the child dependent.	s. 39.501, F.S.
Arraignment Hearing and Shelter Review	An arraignment and shelter review occurs within 28 days of the shelter hearing. This allows the parent to admit, deny, or consent to the allegations within the petition for dependency and allows the court to review any shelter placement.	s. 39.506, F.S.
Adjudicatory Trial	An adjudicatory trial is held within 30 days of arraignment. The judge determines whether a child is dependent during trial.	s. 39.507, F.S.
Disposition Hearing	If the child is found dependent, disposition occurs within 15 days of arraignment or 30 days of adjudication. The judge reviews the case plan and placement of the child. The judge orders the case plan for the family and the appropriate placement of the child.	s. 39.506, F.S. s. 39.521, F.S.
Postdisposition hearing	The court may change temporary placement at a postdisposition hearing any time after disposition but before the child is residing in the permanent placement approved at a permanency hearing.	s. 39.522, F.S.
Judicial Review Hearings	The court must review the case plan and placement every 6 months, or upon motion of a party.	s. 39.701, F.S.
Petition for Termination of Parental Rights	Once the child has been out-of-home for 12 months, if DCF determines that reunification is no longer a viable goal, termination of parental rights is in the best interest of the child, and other requirements are met, a petition for termination of parental rights is filed.	s. 39.802, F.S. s. 39.8055, F.S. s. 39.806, F.S. s. 39.810, F.S.
Advisory Hearing	This hearing is set as soon as possible after all parties have been served with the petition for termination of parental rights. The hearing allows the parent to admit, deny, or consent to the allegations within the petition for termination of parental rights.	s. 39.808, F.S.

<sup>7</sup> The state has a compelling interest in providing stable and permanent homes for adoptive children in a prompt manner, in preventing the disruption of adoptive placements, and in holding parents accountable for meeting the needs of children. S. 63.022, F.S.

Adjudicatory Hearing	An adjudicatory trial shall be set within 45 days after the advisory hearing. The judge determines whether to terminate parental rights to the child at this trial.	s. 39.809, F.S.
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The Florida Supreme Court's *Florida Rules of Juvenile Procedure* control procedural matters for Chapter 39 dependency proceedings unless otherwise provided by law.<sup>8</sup> DCF personally serves the parent(s) with a physical copy of the petition of dependency. Service of process gives the opposing party notice of the proceedings so that they may be given the opportunity to offer a defense.<sup>9</sup> Without proper service of process, the court lacks personal jurisdiction over the opposing party.<sup>10</sup>

However, under s. 39.502(2), F.S., a personal appearance by any person in a dependency hearing before the court, such as an arraignment, excuses DCF from having to serve process on that person.<sup>11</sup> Effective October 1, 2022, the Florida Supreme Court amended the Florida Rules of Juvenile Procedure to authorize personal appearances via audio-video communication technology in dependency hearings.<sup>12</sup> Therefore, in dependency proceedings, a personal appearance, whether in-person or remote, waives the formal service of process.

However, these court amendments preserved the personal service requirement in hearings for the termination of parental rights (TPR),<sup>13</sup> and s. 39.801(3), F.S., still requires personal service upon a parent in a TPR advisory hearing.<sup>14</sup> Thus, even if a parent attends the TPR advisory hearing, the court cannot conduct the hearing until DCF personally serves that parent. Previously, when TPR advisory hearings were routinely held in person, this was resolved when DCF personally served the physically-present parent with a physical copy of the petition in the courtroom. However, TPR advisory are now routinely conducted remotely by audio-video communication technology. As a result, DCF staff are not physically present with the parent to serve him or her, and DCF must request continuances from the court until it can complete service by a formal process service—even if the parent is simultaneously attending that TPR hearing remotely.

### Permanency Placements

Approximately 59,000 children statewide receive child welfare services. Of those children, roughly 48 percent are in in-home care and 52 percent are in out-of-home care.<sup>15</sup> While these children receive in-home or out-of-home care, which are both temporary solutions by design, DCF develops a permanency plan for each child. Current law specifies the following permanency goals, listed in order of preference:

- Reunification with the child's family;
- Adoption, if a petition for termination of parental rights has been or will be filed;
- Permanent guardianship under s. 39.6221, F.S.;
- Permanent placement with a fit and willing relative under s. 39.6231, F.S.; or
- Placement in another planned permanent living arrangement under s. 39.6241, F.S.<sup>16</sup>

During SFY 2022-2023, 10,686 children exited out-of-home care. The table below shows the number placement type.

### **Permanency Placements SFY 2022-2023<sup>17</sup>**

<sup>8</sup> S. 39.013(1), F.S.; Fla. R. Juv. P. 8.000.

<sup>9</sup> *M.J.W. v. Fla. Dep't of Children and Families*, 825 So.2d 1038, 1041 (Fla. 1st DCA 2002).

<sup>10</sup> *Id.*

<sup>11</sup> S. 39.502(2), F.S.; Fla. R. Juv. P. 8.225(a)(3)(C).

<sup>12</sup> *In re Amendments to Florida Rules of Juvenile Procedure, Florida Family Law Rules of Procedure, and Florida Supreme Court Approved Family Law Forms*, 356 So.3d 685, 686 (Fla. 2022).

<sup>13</sup> *Id.* at Appendix, Rule 8.505. Process and Service.

<sup>14</sup> S. 39.801(3)(b), F.S.

<sup>15</sup> *Supra*, FN 4.

<sup>16</sup> S. 39.621(3), F.S.

Reunification	Adoption	Permanent Guardianship	Permanent Placement with a fit and willing relative or in another planned permanent living arrangement
4,645	3,521	1,926	594

Some children living in DCF licensed care do not receive a permanent placement and age out of the system. For a child living in DCF licensed care who reaches age 18 without achieving permanency, the current law gives these young adults the option to remain in DCF licensed care under judicial supervision. If these young adults decide not to continue receiving Extended Foster Care services, then these young adults must actively participate in any one of four self-sufficiency activities:

1. Completing secondary education or a program leading to an equivalent credential;
2. Being enrolled in an institution that provides postsecondary or vocational education;
3. Participating in a program or activity designed to promote or eliminate barriers to employment; or
4. Being employed for at least 80 hours per month.

However, the young adult may be excused from the self-sufficiency activities if the young adult documents a physical, intellectual, emotional, or a psychiatric condition that limits the young adult's full-time participation.<sup>18</sup>

The young adult loses eligibility to remain in DCF licensed care on the young adult's 21<sup>st</sup> birthday (or 22<sup>nd</sup> for those with disabilities), leave care to live in a permanent home consistent with the young adult's permanency plan, or knowingly and voluntarily withdraws consent to participate in extended care.<sup>19</sup>

#### *Background Checks Prior to Child Placement*

DCF may not place a child with a person, other than a parent, if the criminal history records check reveals that the person has certain felony convictions.<sup>20</sup> Additionally, DCF considers the criminal history of other individuals present in that person's home.

To determine whether any of these individuals have a disqualifying criminal history, DCF conducts a records check. The nature of the review and the standards for placement depend on the age of the individual and the nature of their presence in the home and whether they provide care to the child. These requirements are codified in statute and in rule.

When DCF scrutinizes a proposed placement of a child, under s. 39.0138(1), DCF must conduct a records check of household members.<sup>21</sup> DCF rule defines a "household member" as "any person who resides in a household, including the caregiver, other family members residing in the home, and adult visitors to the home who provide care of the child outside the parent's sight and/or sound supervision."<sup>22</sup>

At a minimum, DCF must conduct records checks for all household members 12 years of age and older through the State Automated Child Welfare Information System (SACWIS), a local law enforcement

<sup>17</sup> Office of Child Welfare Performance and Quality Improvement, *Child Welfare Key Indicators Monthly Report, October 2023*, Florida Department of Children and Families, (Oct. 2023) [https://www.myflfamilies.com/sites/default/files/2023-11/KI\\_Monthly\\_Report\\_Oct2023.pdf](https://www.myflfamilies.com/sites/default/files/2023-11/KI_Monthly_Report_Oct2023.pdf) (last visited Jan. 16, 2024). DCF did not breakdown the numbers for permanent placement with a fit and willing relative or placement in another planned permanent living arrangement.

<sup>18</sup> S. 39.6251(1)-(4), F.S.

<sup>19</sup> S. 39.6251(5), F.S.

<sup>20</sup> Child abuse, abandonment, neglect, domestic violence, child pornography or other felony in which a child was a victim of the offense, homicide, or sexual battery. Violent felonies are also automatically disqualifying offenses unless the violent felony was felony assault of an adult, felony battery of an adult, or resisting arrest with violence. For these violent felony exceptions, DCF may not place a child with that person, other than a parent, if the felony conviction was within the previous 5 years. Also, a drug-related felony conviction within the previous 5 years subjects the person convicted, other than a parent, to a moratorium on placement approvals.

<sup>21</sup> S. 39.0138(1), F.S.

<sup>22</sup> 65C-30.001(59), F.A.C.

agency, and a statewide law enforcement agency.<sup>23</sup> For all household members age 18 or older, a name check through the National Crime Information Center must be performed when there are exigent circumstances which demand an emergency placement within 72 hours.<sup>24</sup> In addition, an out-of-state criminal history records check is mandatory for all household members 18 years of age and older who resided in another state.<sup>25</sup> At DCF's discretion, a criminal history records check may include a Level 2 screening and a local criminal records check through local law enforcement agencies of other visitors to the home of the proposed placement.<sup>26</sup>

DCF must complete the records check with 14 business days after receiving a person's criminal history results, unless additional information is required to complete the processing.<sup>27</sup> Applicants must also disclose to DCF any prior or pending local, state, or national criminal proceeding in they are or were involved.<sup>28</sup>

Florida statute authorizes DCF to place a child in a home that otherwise meets placement requirements if a name check of state and local criminal history records systems does not disqualify the applicant.<sup>29</sup> But first, DCF must submit fingerprints to FDLE for FBI review and must be awaiting the results of the state and national criminal history records check.<sup>30</sup>

The FBI's Criminal Justice Information Law Unit (CJILU) previously authorized access for DCF to conduct fingerprint-based background checks for child placements. In 2020, CJILU deemed s. 39.0138, F.S. inadequate because it found the term "visitor" in the definition of "household member" in DCF rule to be overly broad and the timeframes governing fingerprint-based background checks were not explicitly stated. While DCF retains temporary access to FBI criminal history record information because of a grace period, s. 39.0138, F.S., must be brought into compliance by January 1, 2025, or DCF risks losing access to FBI criminal history record information that is necessary to conduct these background checks.<sup>31</sup>

### *Emergency Postdisposition Modification of Placement*

After the court adjudicates a child dependent, the court determines the most appropriate protections, services, and placement for the child in dependency cases at the disposition hearing.<sup>32</sup> However, these decisions may be changed at any time before the child begins residing at the approved permanent placement if DCF or another interested person petitions the court. If the motion made in the petition alleges a need for a change in the conditions of protective supervision or the placement, and if the interim caregiver denies the need for a change, then the court will hold a postdisposition hearing. If the court grants the postdisposition motion, the court will change the placement, modify the conditions of protective supervision, or continue the conditions of protective supervision.<sup>33</sup> In FY 2022-23, the court granted a postdisposition change in custody for 6,672 children.<sup>34</sup>

However, emergency circumstances may require a child's removal more quickly than the petition process allows, and current law does not include an expedited emergency postdisposition process to modify a child's placement. When DCF assesses that the child is in danger of or has been subject to is abuse, abandonment, or neglect in the current placement, DCF takes physical custody of the child. Without an emergency postdisposition process in current law, DCF can only petition the court for a

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<sup>23</sup> S. 39.0138(1), F.S.

<sup>24</sup> 65C-28.011(1)(e), F.A.C.

<sup>25</sup> *Id.* The foreign state's jurisdiction may or may not allow the release of such records.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> S. 39.1038(6), F.S.

<sup>29</sup> S. 39.0138(5), F.S.

<sup>30</sup> *Id.*

<sup>31</sup> Florida Department of Children and Families, Agency Analysis of 2024 House Bill 1083, p. 3 (Dec. 15, 2023).

<sup>32</sup> See S. 39.01(24), F.S.

<sup>33</sup> S. 39.522(2), F.S. To evaluate arguments at a postdisposition hearing, the court uses the best interest of the child standard factors in s. 39.01375, F.S.

<sup>34</sup> Florida Department of Children and Families, Agency Analysis of 2024 House Bill 1083, p. 6 (Dec. 15, 2023).

shelter hearing, which is the initial stage of dependency and thus inappropriate given that the child is in the later stage of dependency proceedings, having already been sheltered and in DCF custody.<sup>35</sup>

### *Permanent Guardianship*

Permanent guardianships promote the child's best interests when the child needs a nurturing, stable environment outside the home of their parents. An alternative to adoption, permanent guardianships preserve the legal parent-child relationship while physical custody rights to the child transfer from DCF to a legal caregiver. This permanency option maintains the child's inheritance rights, the parents' right to consent to a child's adoption, and the parents' responsibilities to provide financial, medical, and other support to the child.<sup>36</sup>

### ***Guardianship Assistance Program***

DCF operates the Guardianship Assistance Program to provide guardianship assistance payments to the child's permanent guardian. DCF establishes a permanent guardian's eligibility for guardianship assistance payments once all of the following requirements are met:

- The court approved the child's placement with the permanent guardian.
- The court granted legal custody to the permanent guardian.
- The permanent guardian is licensed to care for the child as a foster parent.
- The child retained eligibility for foster care room and board payments for at least 6 consecutive months while the child resided in the home of the permanent guardian so long as the permanent guardian is licensed to care for the child as a foster parent.<sup>37</sup>

Once the permanent guardian formalizes a guardianship agreement with DCF for a child adjudicated dependent, the permanent guardian may also receive guardianship assistance payments for that child's sibling(s). The sibling(s) adjudicated dependent because of child abuse, neglect, or abandonment are covered so long as the sibling(s) are also placed with the permanent guardian.<sup>38</sup>

Generally, DCF remits guardianship assistance payments in the default amount of \$4,000 annually, paid on a monthly basis. However, the permanent guardian and DCF may set a different amount memorialized in their Guardianship Assistance Agreement and adjust that amount from time to time based on changes in the needs of the child or the circumstances of the permanent guardian.<sup>39</sup>

Current law extends guardianship assistance payments beyond the child's 18<sup>th</sup> birthday in certain situations. First, the child's permanent guardian needs to create an initial Guardianship Assistance Agreement with DCF during the period between the child's 16<sup>th</sup> birthday and 18<sup>th</sup> birthday. Second, the child must actively perform any one of four self-sufficiency activities until the child's 21<sup>st</sup> birthday. These four self-sufficiency activities are as follows:

1. Completing secondary education or a program leading to an equivalent credential;
2. Being enrolled in an institution that provides postsecondary or vocational education;
3. Participating in a program or activity designed to promote or eliminate barriers to employment;  
or
4. Being employed for at least 80 hours per month.

However, the child may be excused from the self-sufficiency activities if the child has a documented physical, intellectual, emotional, or a psychiatric condition that limits the child's full-time participation.<sup>40</sup>

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<sup>35</sup> *Id.*

<sup>36</sup> S. 39.6221(6), F.S.

<sup>37</sup> S. 39.6225(2), F.S.

<sup>38</sup> S. 39.6225(3), F.S.

<sup>39</sup> S. 39.6225(5)(d), F.S.

<sup>40</sup> S. 39.6225(9), F.S.



Finally, a child or young adult receiving benefits through the guardianship assistance program is not eligible to simultaneously receive relative caregiver benefits under s. 39.5085, F.S., postsecondary education services and supports under s. 409.1451, F.S., or child-only cash assistance under Chapter 414.<sup>41</sup>

However, the child may be excused from the self-sufficiency activities if the child has a documented physical, intellectual, emotional, or a psychiatric condition that limits the child's full-time participation.<sup>42</sup>

Finally, a child or young adult receiving benefits through the guardianship assistance program is not eligible to simultaneously receive relative caregiver benefits under s. 39.5085, F.S., postsecondary education services and supports under s. 409.1451, F.S., or child-only cash assistance under Chapter 414.<sup>43</sup>

### *Successor Guardians*

If a permanent guardian named a DCF-approved successor guardian on the child's guardianship assistance agreement, current law states a court must let a 6-month interim period elapse before the child can be permanently placed with a successor guardian.<sup>44</sup>

Subject to DCF approval, a permanent guardian may formally nominate a successor guardian to assume care and responsibility for the child if the permanent guardian can no longer do so.<sup>45</sup> The permanent guardian nominates a successor guardian on the written Guardianship Assistance Agreement with DCF.<sup>46</sup> As a prerequisite of nomination and approval, the successor guardian must successfully complete a number of criminal, delinquency, and abuse/neglect history checks.<sup>47</sup> Should events occur that activate the successor guardian, the successor guardian must have a home study completed and approved before the child's placement with the successor guardian.<sup>48</sup>

The successor guardian is not required to be a relative, fictive kin, or licensed caregiver.<sup>49</sup>

### *Adoption of Children from the Child Welfare System*

DCF, a CBC lead agency, or the CBC's subcontracted agency may field an initial inquiry from a prospective adoptive parent who seeks to learn about the adoption of children adjudicated dependent. Upon initial inquiry, an agency must respond to the prospective adoptive parent within 7 business days with information about the adoption process and the requirements for adopting a child adjudicated dependent.<sup>50</sup>

When the prospective adoptive parent articulates an interest in adopting a child adjudicated dependent, one of the agencies must refer the prospective adoptive parent to a DCF-approved adoptive parent training program.<sup>51</sup> To adopt, the prospective adoptive parent must complete the training program,<sup>52</sup> a DCF adoption application, and a home study.<sup>53</sup> The home study component is two parts: the preliminary home study and the final home investigation. A favorable preliminary home study allows

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<sup>41</sup> S. 39.6225(5)(a), F.S.

<sup>42</sup> S. 39.6225(9), F.S.

<sup>43</sup> S. 39.6225(5)(a), F.S.

<sup>44</sup> S. 39.6221(1), F.S.

<sup>45</sup> R. 65C-44.001(6), 65C-44.0045, F.A.C.

<sup>46</sup> R. 65C-44.004, F.A.C.

<sup>47</sup> R. 65C-44.0045, F.A.C.

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

<sup>49</sup> *Id.*

<sup>50</sup> S. 63.093(1), F.S.

<sup>51</sup> S. 63.093(2), F.S.

<sup>52</sup> The following prospective adoptive parents are not required to complete the training program: a licensed foster parent or an eligible caregiver. An eligible caregiver attended a training program within the past 5 years, had the child for at least 6 months, and can demonstrate a determination to understand the challenges and parenting skills needed to successfully parent the child who is available for adoption.

<sup>53</sup> Ss. 63.093(2)-(4), F.S.

the child adjudicated dependent to be placed in the intended adoptive home – pending the trial court’s entry of the judgment of adoption.<sup>54</sup> A preliminary home study must include at a minimum an interview, a records checks, a physical home environment assessment, a financial security determination, and other required documentation.<sup>55</sup> The final home investigation must be conducted before the adoption becomes final.<sup>56</sup> The final home investigation determines the suitability of the adoptive placement with two scheduled visits and vets the applicant’s social and medical history.<sup>57</sup>

Afterwards, one of the agencies must evaluate the applications through a preparation process prescribed by rule<sup>58</sup> and must decide the applicant’s appropriateness to adopt.<sup>59</sup> This decision must reflect the final recommendation included in the adoptive home study and must be rendered within 14 business days after receipt of the final recommendation.<sup>60</sup>

The average length of time from a child being sheltered to the termination of parental rights (TPR) is 18 months. The average length of time from TPR to finalizing an adoption is 12 months. Thus, a child adjudicated dependent spends an average of 2.5 years in the dependency court before exiting through adoption. In June 2023, approximately 4,700 children adjudicated dependent were available for adoption. By December 2023, 3,300 of those children were matched and/or placed with caregivers who wanted to adopt.<sup>61</sup>

### ***The Statewide Adoption Exchange***

The federal Social Security Act Title IV-E conditions federal payments for foster care, prevention, and permanency upon DCF demonstrating proof that they are meeting a variety of requirements. Regarding the permanency goal of adoption, DCF must document how it is attempting to find an adoptive family for a child. At a minimum, such documentation must include child specific recruitment efforts through an electronic state, regional, or national adoption exchange that facilitates orderly and timely in-State and interstate placements.<sup>62</sup>

The federal Child Abuse Prevention and Treatment and Adoption Reform Act (CAPTA) also reflects a focused effort, in part, to eliminate barriers to adoptions across jurisdictional boundaries. The HHS Secretary must award CAPTA grants to states that carry out initiatives to this end. These CAPTA grants supplement, and do not supplant, efforts to expand the capacity of all adoption exchanges to serve increasing numbers of children.<sup>63</sup>

In Florida, current law directs DCF to establish, directly or through purchase, a statewide adoption exchange. All DCF-licensed child placing agencies must receive access to the statewide adoption exchange as a means to recruit adoptive families for children legally freed for adoption and who have

### ***Adoption of Orphaned Children***

A child adjudicated dependent under Chapter 39 can be a child who was abandoned because they lack a parent or legal custodian capable of providing supervision and care.<sup>64</sup> When orphaned children are adjudicated dependent, there is no statutory mechanism to permanently commit the child to DCF for the purposes of adoption because an orphaned child’s parent(s) did not abandon them.<sup>65</sup> As Chapter 39 defines abandonment, abandonment means the parent made “no significant contribution to the

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<sup>54</sup> S. 63.092(3), F.S.

<sup>55</sup> *Id.* A preliminary home study must document the counseling and education of the applicant(s) on adoptive parenting, that an agency provided the applicant(s) with information about the adoption process and community support services, and signed copies acknowledging receipt of required agency disclosures.

<sup>56</sup> S. 63.125(1), F.S.

<sup>57</sup> S. 63.125(5), F.S.

<sup>58</sup> R. 65C-16.005, F.A.C.

<sup>59</sup> S. 63.093(5), F.S.

<sup>60</sup> S. 63.093(5), F.S.

<sup>61</sup> Florida Department of Children and Families, Agency Analysis of 2024 House Bill 1083, p. 11 (Dec. 15, 2023).

<sup>62</sup> 42 U.S.C. § 675(1)(E)

<sup>63</sup> 42 U.S.C. § 5113(e)

<sup>64</sup> S. 39.01(14)(e), F.S.

<sup>65</sup> Florida Department of Children and Families, Agency Analysis of 2024 House Bill 1083, p. 4 (Dec. 15, 2023); see s. 39.01(1), F.S.

child's care and maintenance or has failed to establish or maintain a substantial and positive relationship with the child, or both."<sup>66</sup>

Instead, dependency court judges rely on their inherent authority to enter any order in the child's best interest to permanently commit the child for adoption.<sup>67</sup>

A judgment of adoption relieves the birth parents of all parental rights and responsibilities, terminates all legal relationships between the adopted person and their birth parents and relatives, and creates a familial and legal relationship between the adopted person, the adoptive parent, and the adoptive parent's relatives.<sup>68</sup> Notably, the adopted person lacks intestate<sup>69</sup> inheritance rights to the petitioner's estate.<sup>70</sup> Meanwhile, the Florida Probate Code may preserve the adopted person's intestate inheritance rights to their birth parents' estate.<sup>71</sup>

For orphaned children, a judgment of adoption may produce a different outcome. For example, if an orphaned child is adopted by a close relative, the child's right of inheritance from or through the deceased parents is unaffected by the close relative adoption.<sup>72</sup> However, in all other cases, current law requires a court order granting the termination of parental rights (TPR) as a requirement to non-close relative adoptions because the orphaned child is considered dependent for Chapter 39 purposes.<sup>73</sup> Complicating matters, a TPR court order generally requires a judicial finding of harmful parental behavior towards the child.<sup>74</sup> Also, while living parents may voluntarily surrender their parental rights over a child by written consent,<sup>75</sup> deceased parents cannot consent. Furthermore, current law authorizes a court to waive the consent of certain individuals to an adoption, but none of those individuals include deceased parents.<sup>76</sup>

This current technical shortcoming in Florida statute means DCF lacks statutory authorization to secure legal custody of orphaned children for purposes of a permanent placement through a court order.<sup>77</sup>

### ***Legal Challenges to Denied Adoption Petitions***

When DCF receives the custodial rights of a child adjudicated dependent, DCF may seek an adoption placement for the child through its contracted CBCs if the court establishes adoption as the child's permanency goal. When there are two or more families with approved home studies, DCF's rules route these competing applications through a CBC's adoption applicant review committee (AARC) for a non-binding recommendation.<sup>78</sup> When a CBC's AARC offers the adoption recommendation to DCF, DCF reviews and issues its consent to one applicant while communicating its denial to the other applicant(s) through certified letter.<sup>79</sup>

Unsuccessful applicants get an opportunity to challenge DCF's decision under Florida's Administrative Procedure Act (APA).<sup>80</sup> If an unsuccessful applicant only contests DCF's reasoning, the unsuccessful applicant may request an informal hearing with a designated hearing officer at the agency.<sup>81</sup> A final

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<sup>66</sup> S. 39.01(1), F.S.

<sup>67</sup> *G.S. v. T.B.*, 985 So.2d 978, 982 (Fla. 2008).

<sup>68</sup> S. 63.172(1), F.S.

<sup>69</sup> When a person dies intestate, that person died without a valid will. When this happens, the state's intestate law predetermines how the deceased person's estate will be distributed. See Bryan Gardner, *Intestate Law*, Black's Law Dictionary (11th ed. 2019) (Accessed Westlaw Dec. 22, 2023).

<sup>70</sup> S. 63.172(1)(c), F.S.

<sup>71</sup> S. 63.172(1)(b), F.S.

<sup>72</sup> S. 63.172(2), F.S.

<sup>73</sup> See s. 39.621(3)(b), F.S.

<sup>74</sup> S. 39.806(1), F.S.

<sup>75</sup> S. 39.806(1)(a), F.S.

<sup>76</sup> S. 63.064, F.S.

<sup>77</sup> Florida Department of Children and Families, Agency Analysis of 2024 House Bill 1083, p. 4 (Dec. 15, 2023).

<sup>78</sup> R. 65C-16.005(9), F.A.C.

<sup>79</sup> These certified letters represent final agency action for purposes of Florida's Administrative Procedure Act.

<sup>80</sup> *Fla. Dep't of Children and Family Services v. I.B. and D.B.*, 891 So.2d 1168, 1170 (Fla. 1st DCA 2005) (The Administrative Procedure Act confers an unsuccessful adoption applicant with the right to a hearing wherein they have an opportunity to change the agency's mind).

<sup>81</sup> S. 120.57(2), F.S.

order is due within 90 days after the conclusion of an informal hearing.<sup>82</sup> If an unsuccessful applicant contests a material fact underlying DCF’s decision, the unsuccessful applicant may petition for a formal hearing before an administrative law judge (ALJ) assigned by the Division of Administrative Hearings (DOAH).<sup>83</sup> The DOAH ALJ submits to DCF and all parties a non-binding, recommended order – complete with an established factual record, conclusions of law, and the suggested outcome.<sup>84</sup> Then, DCF may adopt the ALJ’s recommended order as the final order or advance its own final order within 90 days.<sup>85</sup>

From 2021 through 2022, the average length of time between the receipt of a hearing request and entry of a final order was 161 days.<sup>86</sup> The chart below surveys administrative challenges to denied adoption petitions:<sup>87</sup>

Year	DCF Decisions Made After APA Review	CBC AARC Decisions Overturned by these DCF Decisions	DCA Appeals	DCF Decisions After APA Review Overturned through DCA Appeals
2019	58	0	2	0
2020	46	0	4	0
2021	42	1	2	0
2022	41	1	1	0
2023	41	1	1	0

As the chart suggests, a party who is adversely affected by final agency action is entitled to judicial review.<sup>88</sup> Generally, the unsuccessful applicant must appeal DCF’s adoption decision to the First District Court of Appeals (the appellate district where DCF maintains its headquarters) or the appellate district of the party’s residence.<sup>89</sup> From 2021 through 2022, the average additional delay created when an unsuccessful applicant appeals a DCF adoption decision to the appellate court was 323 days.<sup>90</sup>

Meanwhile, the original dependency trial court retains jurisdiction over a child adjudicated dependent until the child is adopted. This means the trial court can review the status of the child and the progress towards an adoption placement. In addition, for good cause shown by the guardian ad litem for the child, the trial court may review the appropriateness of a proposed adoptive placement for the child.<sup>91</sup>

Current law empowers a denied adoption applicant to file a petition with the court to argue DCF unreasonably withheld agency consent for the applicant to adopt the child. Along with the petition, the denied adoption applicant must also file a favorable preliminary adoptive home study. If the trial court agrees with the petitioner that DCF unreasonably withheld agency consent for the applicant to adopt the child, then the court waives DCF consent.<sup>92</sup> Fundamentally, DCF’s consent to an adoption is not a prerequisite to the trial court’s authority to finalize an adoption.<sup>93</sup> Rather, the court’s orders must advance the best interests of the child and the legislative goal of expeditiously providing a stable and permanent home for the child.<sup>94</sup>

### **State Adoption Subsidies**

<sup>82</sup> S. 120.56(2)(l), F.S.

<sup>83</sup> S. 120.57(1)(a), F.S.

<sup>84</sup> S. 120.57(1)(k), F.S.

<sup>85</sup> Ss. 120.56(2)(l), 120.57(1)(l), F.S.

<sup>86</sup> Florida Department of Children and Families, Agency Analysis of 2024 House Bill 1083, p. 10 (Dec. 15, 2023).

<sup>87</sup> *Id.*

<sup>88</sup> S. 120.68(1)(a), F.S.

<sup>89</sup> S. 120.68(2)(a), F.S.

<sup>90</sup> Florida Department of Children and Families, Agency Analysis of 2024 House Bill 1083, p. 10 (Dec. 15, 2023).

<sup>91</sup> S. 39.812(4), F.S.

<sup>92</sup> S. 63.062(7), F.S.

<sup>93</sup> *B. Y. v. Fla. Dep’t of Children and Families*, 887 So.2d 1253, 1257 (Fla. 2004).

<sup>94</sup> *Id.*

## The Maintenance Adoption Subsidy

Current law makes adoption assistance available to prospective adoptive parents to enable them to adopt difficult-to-place children.<sup>95</sup> A difficult-to-place child is a child:

1. adjudicated dependent remaining in the permanent custody of DCF of a licensed child-placing agency;
2. adjudicated dependent who established significant emotional ties with the foster parents or is unlikely to be adopted for certain reasons;<sup>96</sup> or
3. for whom a reasonable but unsuccessful effort was made to place that child without providing a maintenance subsidy.<sup>97</sup>

Adoption assistance may include a maintenance subsidy, medical assistance, Medicaid assistance, reimbursement of nonrecurring expenses associated with adoption, and a tuition exemption at a postsecondary education institution.<sup>98</sup> As to the maintenance subsidy, DCF grants this monthly payment when all other resources available to a child were thoroughly explored, and it can be clearly established that the maintenance subsidy is the most acceptable plan for securing a permanent placement for the child.<sup>99</sup>

As a condition of receiving adoption assistance, the adoptive parents must have an approved adoption home study and an adoption assistance agreement with DCF before the adoption is finalized.<sup>100</sup> Generally, the default maintenance subsidy is \$5,000/year, paid on a monthly basis, for the support and maintenance of a child until the child's 18<sup>th</sup> birthday. However, the adoptive parents and DCF may set a different amount memorialized in their Adoption Assistance Agreement and adjust that amount from time to time based on changes in the needs of the child or the circumstances of the adoptive parents.<sup>101</sup>

Current law extends maintenance subsidy payments beyond the child's 18<sup>th</sup> birthday in certain situations. First, the child's adoptive parents need to create an initial Adoption Assistance Agreement with DCF during the period between the child's 16<sup>th</sup> birthday and 18<sup>th</sup> birthday. Second, the child must actively be involved in any one of four self-sufficiency activities until the child's 21<sup>st</sup> birthday. These four self-sufficiency activities include:

1. Completing secondary education or a program leading to an equivalent credential;
2. Being enrolled in an institution that provides postsecondary or vocational education;
3. Participating in a program or activity designed to promote or eliminate barriers to employment;  
or
4. Being employed for at least 80 hours per month.

However, the child may be excused from the self-sufficiency activities if the child has a documented physical, intellectual, emotional, or a psychiatric condition that limits the child's full-time participation.<sup>102</sup>

Finally, a child or young adult receiving benefits through the adoption assistance program is not eligible to simultaneously receive relative caregiver benefits under s. 39.5085, F.S. or postsecondary education services and supports under s. 409.1451, F.S.

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<sup>95</sup> S. 409.166(1), F.S.

<sup>96</sup> These reasons could be that child is 8 years of age or older, developmentally disabled, physically or emotionally handicapped, a member of a racial group that is disproportionately represented among children adjudicated dependent, and/or a member of a sibling group of any age if two or more members of a sibling group remain together for purposes of adoption.

<sup>97</sup> S. 409.166(2)(d), F.S.

<sup>98</sup> S. 409.166(2)(a), F.S.

<sup>99</sup> S. 409.166(4)(b), F.S.

<sup>100</sup> S. 409.166(5)(a), F.S.

<sup>101</sup> S. 409.166(4)(c), F.S.

<sup>102</sup> S. 409.166(4)(d), F.S.

## Transition to Adulthood

Young adults who age out of the foster care system more frequently have challenges achieving self-sufficiency compared to young adults who never came to the attention of the foster care system. Young adults who age out of the foster care system are less likely to earn a high school diploma or GED and more likely to have lower rates of college attendance.<sup>103</sup> They have more mental health problems, have a higher rate of involvement with the criminal justice system, and are more likely to have difficulty achieving financial independence.<sup>104</sup> These young adults also have a higher need for public assistance and are more likely to experience housing instability and homelessness.<sup>105</sup>

In federal fiscal year 2021, the federal Children’s Bureau within the U.S. Department of Health & Human Services reported 46,694 teens and young adults entered foster care in the United States,<sup>106</sup> with 2,167 teens and young adults entering Florida’s foster care system.<sup>107</sup> The Children’s Bureau also collects information and outcomes on youth and young adults currently or formerly in foster care who received independent living services supported by federal funds.<sup>108</sup> To this end, the Children’s Bureau’s National Youth in Transition Database (NYTD) representation tracks the independent living services each state provides to foster youth in care and assesses each state’s performance in providing independent living and transition services.

DCF will establish its fifth NYTD report (Oct. 2022 – Sept. 2023) that surveys youth in Florida’s foster care system beginning on their 17<sup>th</sup> birthday.<sup>109</sup> In the interim, the most recent Florida NYTD available on DCF’s website is the 2018 report.<sup>110</sup> In the chart below, the 2018 Florida NYTD documented outcomes related to education, employment, housing, finances and transportation, health and well-being, and connections:<sup>111</sup>

Outcomes of Young Adults who Aged Out of Care	
Area	Outcome
Education	<ul style="list-style-type: none"> <li>74% were enrolled in and attending high school, GED classes, post-high school vocational training, or college.</li> <li>12% experienced barriers that prevented them from continuing education. The top three reported barriers included the need to work full-time, not having transportation, and having academic difficulties.</li> </ul>
Employment	<ul style="list-style-type: none"> <li>15% were employed full-time (35 hours per week or more).</li> <li>26% were employed part-time.</li> <li>78% had a paid job over the last year.</li> <li>22% completed an apprenticeship, internship, or other on-the-job training, either paid or unpaid.</li> </ul>

<sup>103</sup> Gypen, L., Vanderfaeillie, J., et al., “Outcomes of Children Who Grew Up in Foster Care: Systematic-Review”, *Children and Youth Services Review*, vol. 76, pp. 74-83, <http://dx.doi.org/10.1016/j.childyouth.2017.02.035> (last visited November 30, 2023).

<sup>104</sup> *Id.*

<sup>105</sup> *Id.*

<sup>106</sup> Children’s Bureau, *The Adoption and Foster Care Analysis and Reporting System (AFCARS) FY 2021 data*, U.S. Department of Health and Human Services, p. 2, June 28, 2022, <https://www.acf.hhs.gov/sites/default/files/documents/cb/afcars-report-29.pdf> (last accessed Dec. 3, 2023).

<sup>107</sup> Children’s Bureau, *The Adoption and Foster Care Analysis and Reporting System (AFCARS) FY 2021 data: Florida*, U.S. Department of Health and Human Services, p. 1, June 28, 2022, <https://www.acf.hhs.gov/sites/default/files/documents/cb/afcars-tar-fl-2021.pdf> (last accessed Dec. 3, 2023).

<sup>108</sup> Children’s Bureau, *Data and Statistics: National Youth in Transition Database*, U.S. Department of Health & Human Services, [https://www.acf.hhs.gov/cb/data-research/data-and-statistics-nytd#FL\\_26606](https://www.acf.hhs.gov/cb/data-research/data-and-statistics-nytd#FL_26606) (last visited Dec. 3, 2023).

<sup>109</sup> Florida Department of Children and Families, *Independent Living Services Annual Report*, Office of Child Welfare, Feb. 2023, p. 15 [https://www.myflfamilies.com/sites/default/files/2023-07/Independent\\_Living\\_Services\\_Report\\_2022.pdf](https://www.myflfamilies.com/sites/default/files/2023-07/Independent_Living_Services_Report_2022.pdf) (last visited Dec. 4, 2023).

<sup>110</sup> Florida Department of Children and Families, *Annual Reports for Independent Living*, Child and Family Services, <https://www.myflfamilies.com/services/child-family/independent-living/annual-reports-for-independent-living> (last visited Dec. 4, 2023).

<sup>111</sup> Florida Department of Children and Families, *Florida National Youth in Transition Database, 2018 Survey Data Report*, <https://www.myflfamilies.com/sites/default/files/2023-06/2018%20Florida%20NYTD%20Statewide%20Report%20Final.pdf> (last visited Dec. 4, 2023).

<p><b>Housing</b></p>	<ul style="list-style-type: none"> <li>• The top three current living situations included living in their own apartment, house, or trailer; living with friends or a roommate; and living in a group care setting (including a group home or residential care facility).</li> <li>• 41% had to couch surf or move from house to house because they did not have a permanent place to stay.</li> <li>• 27% experienced some type of homelessness in the past year.<sup>112</sup></li> </ul>
<p><b>Financial &amp; Transportation</b></p>	<ul style="list-style-type: none"> <li>• 46% received public food assistance.</li> <li>• 10% received social security payments (Supplemental Security Income, Social Security Disability Insurance, or dependents' payments).</li> <li>• 83% had a reliable means of transportation to school/work.</li> <li>• 76% had an open bank account.</li> </ul>
<p><b>Health &amp; Well-Being</b></p>	<ul style="list-style-type: none"> <li>• 85% were on Medicaid.</li> <li>• 18% had children.</li> <li>• 34% had not received medical care for a physical health problem, treatment for a mental health problem, or dental care in the past two years for some health problem needing to be addressed.</li> <li>• 24% were confined in a jail, prison, correctional facility, or juvenile detention facility within the past two years.</li> </ul>
<p><b>Connections</b></p>	<ul style="list-style-type: none"> <li>• 85% had at least one adult in their life, other than their case manager, to go to for advice or emotional support.</li> <li>• 67% had a close relationship with biological family members.</li> </ul>

*Florida's Road-to-Independence Program*

Current law offers financial assistance to eligible young adults who desire the acquisition of skills, education, and necessary support to become self-sufficient and exit foster care. Eligible young adults access financial assistance through postsecondary education services and support (PESS) or aftercare services.<sup>113</sup>

**PESS**

The PESS stipend helps eligible young adults seek higher education and self-sufficiency. A young adult becomes PESS eligible once eight criteria are met:

1. A former foster youth who is in one of three situations:
  - a. Turned 18 years of age while in the legal custody of DCF,
  - b. Adopted from foster care after the age of 16 after spending at least 6 months in licensed care within the 12 months immediately preceding the adoption, or
  - c. Placed with a court-approved permanent guardian after the age of 16 after spending at least 6 months in licensed care within the 12 months immediately preceding the permanent guardianship.
2. Spent at least 6 months in licensed care before reaching their 18<sup>th</sup> birthday.
3. Earned a standard high school diploma or its equivalent.
4. Admitted for enrollment as a full-time student<sup>114</sup> at an eligible Florida Bright Futures postsecondary educational institution.
5. Reached the age of 18 but is not yet 23 years of age.
6. Applied for other grants and scholarships that the eligible young adult qualifies for.

<sup>112</sup> *Id.*

<sup>113</sup> S. 409.1451(1)(c), F.S.

<sup>114</sup> Students may enroll part-time if they have a recognized disability or if they secure approval from their academic advisor relating to a challenge or circumstance preventing full-time enrollment. Otherwise, full-time enrollment requires 9 credit hours or the vocational school equivalent.

7. Submitted a complete and error-proof Free Application for Federal Student Aid.
8. Signed an agreement to allow DCF and the CBC lead agency access to school records.<sup>115</sup>

After establishing eligibility, DCF determines the PESS stipend amount. Generally, the PESS stipend amount is \$1,720/month. However, if the young adult remains in foster care while attending a postsecondary school and resides in a licensed foster home, the monthly PESS stipend amount is the established room and board rate for foster parents. If the young adult remains in foster care while attending a postsecondary school and resides in a licensed group home, the monthly PESS stipend amount is negotiated between the CBC lead agency and the licensed group home provider.<sup>116</sup>

Before an eligible young adult receives the PESS stipend, DCF or its contracted agency must assess the young adult's financial literacy and existing competencies necessary for successful independent living and the completion of postsecondary education.<sup>117</sup> Eligible young adults receive financial assistance during the months when they are enrolled in a postsecondary education institution.<sup>118</sup>

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<sup>115</sup> S. 409.1451(2)(a), F.S.

<sup>116</sup> S. 409.1451(2)(b), F.S.

<sup>117</sup> S. 409.1451(2)(d), F.S.

<sup>118</sup> S. 409.1451(2)(b), F.S.



## ***Aftercare Services***

Aftercare services are intended to bridge gaps in an eligible young adult's progress towards self-sufficiency. A young adult establishes eligibility for aftercare services if the young adult meets three criteria:

1. Reached the age of 18 while in licensed foster care, but is not yet 23 years of age.
2. Is not in Extended Foster Care pursuant to s. 39.6251, F.S.
3. Temporarily not receiving a PESS stipend.<sup>119</sup>

Aftercare services include, but are not limited to, the following:

1. Mentoring and tutoring.
2. Mental health services and substance abuse counseling.
3. Life skills classes, including credit management and preventive health activities.
4. Parenting classes.
5. Job and career skills training.
6. Counselor consultations.
7. Temporary financial assistance for necessities.
8. Temporary financial assistance for emergencies like automobile repairs or large medical expenses.
9. Financial literacy skills training.<sup>120</sup>

DCF or a CBC lead agency determines the specific aftercare services provided to eligible young adults after an assessment.<sup>121</sup> The resulting aftercare services plan is reassessed every 90 days.<sup>122</sup> Subject to available funding, aftercare services are available to PESS stipend grantees who experience an emergency situation and whose resources are insufficient to meet the emergency situation.<sup>123</sup>

DCF reports that Florida experienced a 13% increase in the total number of young adults receiving independent living services for state fiscal year (SFY) 2022-2023 compared to SFY 2021-2022. The table below itemizes the number of young adults served in each Independent Living program by each CBC Lead Agency during the past two state fiscal years (SFYs):

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<sup>119</sup> S. 409.1451(3)(a), F.S.; R. 65C-42.003(1), F.A.C.

<sup>120</sup> S. 409.1451(3)(b), F.S.

<sup>121</sup> S. 409.1451(3)(b), F.S.

<sup>122</sup> R. 65C-42.003(8), F.A.C.

<sup>123</sup> S. 409.1451(3)(a), F.S.

Lead Agency	2021-2022			2022-2023		
	Aftercare	EFC	PESS	Aftercare	EFC	PESS
Brevard Family Partnership	28	33	14	27	104	11
ChildNet Inc	22	166	112	24	166	112
ChildNet Palm Beach	14	126	68	11	118	62
Children's Network of SW Florida	8	41	58	8	65	34
Citrus Health Network	39	229	198	48	269	186
Communities Connected for Kids	16	28	25	11	28	26
Community Partnership for Children	8	49	37	16	76	47
Family Support Services Suncoast	42	104	62	49	105	55
Children's Network Hillsborough	57	87	40	57	146	60
Embrace Families	32	117	58	38	145	57
Families First Network	12	98	28	11	100	19
St Johns County Commission	5	12	8	0	12	8
Family Support Services	36	97	33	23	107	31
Heartland for Children	32	79	23	37	91	29
Kids Central Inc	39	28	27	54	54	39
Kids First of Florida Inc	0	16	10	0	27	13
NWF Health Network-East	16	55	35	19	67	27
Partnership for Strong Families	10	16	12	6	16	5
Safe Children Coalition	17	37	16	29	37	16
<b>Statewide</b>	<b>433</b>	<b>1,418</b>	<b>864</b>	<b>467</b>	<b>1,733</b>	<b>857</b>

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## Effect of the Bill

### Records Check Process

To preserve DCF's access to the FBI's criminal history records database, Florida must bring DCF's record checks process into federal compliance. PCS for HB 1083 requires the following:

- *Household Members:*
  - For emergency out-of-home care placements to benefit sheltered children, DCF to conduct a name-based criminal history records check of all adult members of a household.
  - Once DCF determines no household member is disqualified after the records check, the bill authorizes DCF to place the child in that household.
  - Unless an exemption applies, the bill requires all adult household members to subsequently submit a full set of fingerprints which the Florida Department of Law Enforcement (FDLE) must receive within 7 calendar days after the records check.
  - Then, the bill requires FDLE to forward the fingerprints to the Federal Bureau of Investigation for national processing within 15 calendar days after the records check.
  - Should an adult household member fail to submit their fingerprints within 15 calendar day after the records check, the bill requires DCF to seek a court order to immediately remove the child from the emergency out-of-home care placement.
- *Visitors to the Household:*

<sup>124</sup> Department of Children and Families, *Department of Children and Families Response to the Independent Living Services Advisory Council 2023 Annual Report*, p. 6 (Dec. 31, 2023) <https://www.myflfamilies.com/services/child-family/lmr> (last visited Jan. 4, 2023). EFC is the acronym for Extended Foster Care and is beyond the scope of this bill.

- The bill adds a chapter-wide definition of visitor in s. 39.01, F.S. For Chapter 39 purposes, the bill defines a “visitor” as a person who provides care or supervision to a child the home or is person 12 years of age or older who will be in the child’s home at least five consecutive days or a minimum of seven days total for any one-month period.
- With this new definition in mind, the bill requires DCF to conduct a name-based check of criminal history records of all visitors to the home.
- As a matter of discretion, the bill authorizes DCF to require a local criminal record check of all visitors to the home who are at least 18 years of age as an optional add-on component of the department’s records check process.

The bill modernizes the name of DCF’s record checks system to the Comprehensive Child Welfare Information System.

### **Orphaned Children Adjudication Process**

The bill creates a formal process to adjudicate orphaned children dependent tailored to their situation.

- The bill authorizes an attorney for DCF, or any other person with factual or sourced knowledge of the allegations and who believes those allegations, to commence a Chapter 39 dependency proceeding if both parents of a child are deceased or the last known living parent of a child is deceased and the child did not receive an appointed legal custodian.
- In the event a child previously adjudicated dependent later becomes an orphan, the bill allows an interested party to file a petition for permanent commitment as a petition for adjudication is not necessary.
- The bill requires a petition for adjudication or permanent commitment of an orphaned child to include the following details in writing:
  - Identity of the allegedly deceased parents.
  - A factual basis that both parents are deceased or the last known living parent is deceased.
  - A factual basis that the child has not receive an appointed legal custodian.
- The bill requires the petitioner to sign a petition under oath affirming the petition was filed in good faith.
- The bill prescribes the procedural process for scheduling hearings, noticing required parties, conducting hearings, ruling on evidence, finalizing court orders, and developing case plans.

### **Emergency Process for Modifying a Child’s Permanent Placement**

The bill establishes a process to make emergency changes of placement for children whom the dependency court initially transferred the physical custody rights to the child from DCF to the permanent placement.

Specifically, the bill establishes the following procedural process:

- The bill allows a child’s case manager, an authorized agent of DCF, and law enforcement officers to remove a child from a court-ordered placement at any time after the child’s authorized caregiver requests the child’s immediate removal from the placement.
- Separately, the bill authorizes DCF and law enforcement officers to remove a child from a placement if they have probable cause:
  - That a placed child was abused, neglected, or abandoned, or
  - That a placed child currently suffers from or is in imminent danger of illness or injury as a result of abuse, neglect, or abandonment.

- The bill prescribes the procedural process for the court to render the appropriate court order based on the facts and circumstances of the case for the purpose of finding a new placement for the child.

### **Changes a Placement with a Permanent Guardian**

The bill cuts the minimum duration of the interim period before a child can be permanently placed with a successor guardian from 6 months to 3 months. The bill also requires the successor guardian to be known to the child.

### **Age Eligibility Threshold Programs for Formerly Dependent Young Adults**

The bill amends the age eligibility threshold for the extended guardianship assistance payment (EGAP), the extended maintenance adoption subsidy (EMAS), and the PESS programs by lowering the child's minimum eligibility age from 16 to 14. In addition, the bill allows young adults who qualify for, but do not participate in, the EGAP or EMAS programs to access aftercare services instead.

As illustrated by the table below, DCF projects participation in EGAP, EMAS, PESS, and aftercare services will increase as follows.

<b>Program</b>	<b>Increased Eligible Population</b>	<b>Estimated Increase in Participation</b>
EGAP	782	235
EMAS	550	165
PESS	351	71
Aftercare Services	1,835	275
Totals	3,518	746

### **Service of Process Waiver in TPR Proceedings**

In advisory proceedings for the termination of parental rights, the bill authorizes the court to waive the service of process on any person if that person personally appears in court. The bill will enable the trial court to commence the TPR advisory proceeding without need for a continuance if the person on whom process is required makes a personal appearance, whether that person is physically present in the courtroom or remotely present in the courtroom by audio-video communication technology.

### **Adoption Appeal Process**

The bill streamlines the process to resolve competing claims of prospective adoptive parents who were denied petitions to adopt. Specifically, the bill:

- grants the dependency trial court exclusive discretion to review DCF's denial of a petitioner's application to adopt a child.
- expressly eliminates the petitioner's access to administrative review under Chapter 120.
- prescribes the procedural process for the court to review a denied application to adopt.
  - While DCF must file a written notification of the denied application with the court and provide copies to all parties within 10 business days after DCF's decision, the court does not hold a hearing about the denial until the unsuccessful applicant files a motion to review.
  - If the court denies the unsuccessful applicant's motion to review, the bill authorizes DCF to remove the child from the unsuccessful applicant's home.
- requires the petition of adoption to include two items:
  - a favorable preliminary adoptive home study, and
  - an attached copy of DCF's consent to adopt unless the court waives the attached copy requirement upon a finding that DCF unreasonably withheld their consent to adopt.

DCF estimates these particular reforms will shave an average of 116 days of delay in the current permanency process.

### **Statewide Adoption Exchange Platform**

The bill restricts public access to the online profiles of children available for adoption. It allows only prospective adoptive parents who completed or are completing an adoptive home study to access these online profiles, and no other members of the public are afforded access.

Any child who is 12 years of age or older may request that a specific photo be used for that child's photo listing and must be consulted during the development of the child's description.

The bill provides an effective date of July 1, 2024.

#### **B. SECTION DIRECTORY:**

**Section 1:** Amending s. 39.01, F.S., relating to definitions.

**Section 2:** Amending s. 39.0138, F.S., relating to criminal history and other records checks; limit on placement of a child.

**Section 3:** Creating s. 39.5035, F.S., relating to deceased parents; special procedures.

**Section 4:** Amending s. 39.522, F.S., relating to postdisposition change of custody.

**Section 5:** Amending s. 39.6221, F.S., relating to permanent guardianship of a dependent child.

**Section 6:** Amending s. 39.6225, F.S., relating to the guardianship assistance program.

**Section 7:** Amending s. 39.801, F.S., relating to procedures and jurisdiction; notice; service of process.

**Section 8:** Amending s. 39.812, F.S., relating to postdisposition relief; petition for adoption.

**Section 9:** Amending s. 63.062, F.S., relating to persons required to consent to adoption; affidavit of nonpaternity; waiver of venue.

**Section 10:** Amending s. 63.093, F.S., relating to adoption of children from the child welfare system.

**Section 11:** Amending s. 409.1451, F.S., relating to the road-to-independence program.

**Section 12:** Amending s. 409.166, F.S., relating to children within the child welfare system; adoption assistance program.

**Section 13:** Amending s. 409.167, F.S., relating to statewide adoption exchange; establishment; responsibilities; registration requirements; rules.

**Section 14:** Providing an effective date of July 1, 2024.

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

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

1. Revenues:

None.

2. Expenditures:

DCF anticipates new expenditures to fund expansions of independent living programs in the amount of \$8,110,140.

- EMAS/EGAP expansion is \$3,216,000.
- PESS expansion is \$1,465,440.
- Aftercare services expansion is \$3,428,700.

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

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

### **III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

DCF has sufficient rulemaking authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**