

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: SB 1064

INTRODUCER: Senator Yarborough

SUBJECT: Children Removed from Caregivers

DATE: March 13, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Tuszynski	Cox	CF	Pre-meeting
2.	_____	_____	AHS	_____
3.	_____	_____	FP	_____

I. Summary:

SB 1064 expands the duties of a lead agency under s. 409.988, F.S., and the contract requirements of the Department of Children and Families under s. 409.996, F.S., to require a lead agency, in coordination with the local managing entity, to provide a trauma-focused assessment to a child removed from his or her parent, legal custodian, or caregiver as soon as practicable but no later than 14 days after the shelter hearing. The assessment must ensure prompt referral for a child to appropriate trauma services, to include clinical evaluation and intervention if needed, and must address the impact of the removal of the child from his or her home.

The bill also requires a lead agency to offer voluntary trauma services to a child and his or her family in the event that a court denies the shelter petition and the child is returned to his or her parent, legal custodian, or caregiver.

The bill will have an indeterminate negative fiscal impact on the private sector. See Section V. Fiscal Impact Statement.

The bill has an effective date of July 1, 2023.

II. Present Situation:

Florida's Child Welfare System

The child welfare system identifies families whose children are in danger of suffering or have suffered abuse, abandonment, or neglect and works with those families to address the problems that are endangering children, if possible. If the problems cannot be addressed, the child welfare system finds safe out-of-home placements for these children. Out-of-home placements can

include a temporary placement with a family member, family foster home, residential child-caring agency, a permanent adoptive placement with a family previously unknown to the child.¹

Community-Based Care Organizations and Services

The DCF contracts for case management, out-of-home care (foster care), adoption, and other related services with lead agencies, also known as community-based care organizations (CBCs). The CBC model is designed to increase local community ownership of service delivery and design of child welfare services.²

The DCF, through the CBCs, administers a system of care³ for children that is directed toward:

- Prevention of separation of children from their families;
- Intervention to allow children to remain safely in their own homes;
- Reunification of families who have had children removed from their care;
- Safety for children who are separated from their families;
- Promoting the well-being of children through emphasis on educational stability and timely health care;
- Permanency; and
- Transition to independence and self-sufficiency.⁴

The CBCs must give priority to services that are evidence-based and trauma informed.⁵ The CBCs contract with a number of subcontractors for case management and direct care services to children and their families. There are 17 CBCs statewide, which together serve the state's 20 judicial circuits.⁶ The CBCs employ case managers that serve as the primary link between the child welfare system and families with children under the DCF's supervision. These case managers work with affected families to ensure that a child reaches his or her permanency goal in a timely fashion.⁷

¹ Section 409.175, F.S.

² The Department of Children and Families, *About Community-Based Care*, available at <https://www.myflfamilies.com/services/child-family/child-and-family-well-being/community-based-care/about-community-based-care> (last visited March 7, 2023) (hereinafter cited as "DCF").

³ *Id.*

⁴ *Id.*; Also see generally s. 409.988, F.S.

⁵ Section 409.988(3), F.S.

⁶ The DCF, *Lead Agency Information*, available at <https://www.myflfamilies.com/services/child-family/child-and-family-well-being/community-based-care/lead-agency-information> (last visited March 7, 2023).

⁷ Section 409.988(1), F.S.

hotline determines the allegations meet the statutory definition of abuse,⁹ abandonment,¹⁰ or neglect.¹¹ A child protective investigator investigates the situation either immediately, or within 24 hours after the report is received, depending on the nature of the allegation.¹²

After conducting an investigation, if the child protective investigator determines that the child is in need of protection and supervision that necessitates removal, the investigator may initiate formal proceedings to remove the child from his or her home.¹³ When the DCF removes a child from the home, a series of dependency court proceedings must occur before a child may be adjudicated dependent.¹⁴ The dependency court process is summarized in the table below.

The Dependency Court Process

Dependency Proceeding	Description of Process	Controlling Statute
Removal	A child protective investigation determines a child is unsafe in his or her home 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.

⁹ Section 39.01(2), F.S. The term “abuse” means any willful act or threatened act that results in any physical, mental, or sexual abuse, injury, or harm that causes or is likely to cause the child’s physical, mental, or emotional health to be significantly impaired. Abuse of a child includes the birth of a new child into a family during the course of an open dependency case when the parent or caregiver has been determined to lack the protective capacity to safely care for the children in the home and has not substantially complied with the case plan towards successful reunification or met the conditions for return of the children into the home. Abuse of a child includes acts or omissions. Corporal discipline of a child by a parent or legal custodian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child.

¹⁰ Section 39.01(1), F.S. The term “abandoned” or “abandonment” means a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the caregiver, while being able, has made no significant contribution to the child’s care and maintenance or has failed to establish or maintain a substantial and positive relationship with the child, or both.

¹¹ Sections 39.01(50) and 39.201(2)(a), F.S. “Neglect” occurs when a child is deprived of, or is allowed to be deprived of, necessary food, clothing, shelter, or medical treatment or a child is permitted to live in an environment when such deprivation or environment causes the child’s physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired. The foregoing circumstances shall not be considered neglect if caused primarily by financial inability unless actual services for relief have been offered to and rejected by such person. A parent or legal custodian legitimately practicing religious beliefs in accordance with a recognized church or religious organization who thereby does not provide specific medical treatment for a child may not, for that reason alone, be considered a negligent parent or legal custodian; however, such an exception does not preclude a court from ordering necessary services.

¹² Section 39.101(2), F.S.

¹³ See generally ss. 39.401 through 39.4024, F.S.

¹⁴ See s. 39.01(14), F.S., for the definition of “child who is found to be dependent.”

Dependency Proceeding	Description of Process	Controlling Statute
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.
Post-disposition hearing	The court may change temporary placement at a post disposition 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.
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.

In-Home and Out-of-Home Care

The DCF is required to administer a system of care that endeavors to keep children with their families and provides interventions to allow children to remain safely in their own homes.¹⁵ Protective investigators and CBC case managers can refer families for in-home services to allow children who would otherwise be unsafe to remain in their own homes.

When a child protective investigator determines that in-home services are not enough to allow a child to safely remain in his or her home, the investigator removes and places the child with a safe and appropriate temporary placement.¹⁶ These temporary placements, referred to as out-of-home care, provide housing and services to children until they can return home to their families or achieve permanency with other families through adoption or guardianship.¹⁷

The CBCs must place all children in out-of-home care in the most appropriate available setting after conducting an assessment using child-specific factors.¹⁸ Legislative intent is to place a

¹⁵ See s. 39.001, F.S.

¹⁶ Sections 39.401 through 39.4022, F.S.

¹⁷ The Office of Program Policy and Government Accountability, *Program Summary*, available at <https://oppaga.fl.gov/ProgramSummary/ProgramDetail?programNumber=5053> (last visited March 7, 2023).

¹⁸ Rule 65C-28.004, F.A.C., provides that the child-specific factors include age, sex, sibling status, physical, educational, emotional, and developmental needs, maltreatment, community ties, and school placement.

child in the least restrictive, most family-like environment in close proximity to parents when removed from his or her home.¹⁹ The DCF is required to follow an enumerated priority list for out-of-home placement, which includes the below-mentioned specified placements in descending order:

- Nonoffending parent;
- Relative caregiver;
- Adoptive parent of the child’s sibling;
- Fictive kin with a close relationship to the child;
- Nonrelative caregiver without an existing relationship to the child;
- Licensed foster care; and then
- Licensed group or congregate care.²⁰

Trauma and Trauma-informed Care

Trauma is a widespread, harmful, and costly public health problem.²¹ Children and adolescents are particularly affected by trauma.²² A growing body of research points to the effects of trauma on mental and physical health, family functioning, academic outcomes, housing stability, and employment.²³ For many youth, exposure to childhood adversity increases the likelihood of involvement with multiple systems, including health care, behavioral health, child welfare, and juvenile justice.²⁴

The term trauma is used to describe an event, series of events, or set of circumstances that is experienced as physically or emotionally harmful or life-threatening, overwhelms one’s ability to cope, and has adverse effects on a person’s mental, physical, social, emotional, or spiritual well-being.²⁵ Exposure to traumatic experiences can alter how people view themselves and others by challenging their beliefs that the world is a safe place, that other people can be trusted, and that they are worthy of care and protection.²⁶ Whether an event or set of circumstances is experienced as traumatic is influenced by many factors, including our internal coping resources, our external supports, and broader community, cultural, and societal factors that shape how we understand and respond to our experiences.²⁷

The term trauma-informed care refers to a universal approach to addressing trauma and promoting resilience through policies, procedures, practices, and programs adopted by the entire workforce, at all levels or roles, and in all parts of the system, for all people receiving services.²⁸

¹⁹ Sections 39.001(1) and 39.4021(1), F.S.

²⁰ Section 39.4021(2)(a), F.S.

²¹ Chapin Hall at the University of Chicago, Building a Multi-System Trauma-informed Collaborative, 2020, p. V, available at <https://www.chapinhall.org/wp-content/uploads/PDF/Multi-System-Trauma-Informed-Care-MSTIC-Guide.pdf> (last viewed March 7, 2023) (hereinafter cited as “Chapin Hall”).

²² *Id.*

²³ *Id.* at p. 1

²⁴ *Id.*

²⁵ Substance Abuse and Mental Health Services Administration, *SAMHSA’s concept of trauma and guidance for a trauma-informed approach*, HHS Publication SMA14-4884, 2014, p. 7, available at <https://store.samhsa.gov/sites/default/files/d7/priv/sma14-4884.pdf> (last viewed March 7, 2023).

²⁶ Chapin Hall at p. 3

²⁷ *Id.*

²⁸ *Id.* at p. 4

The term trauma-informed care is often mistakenly used interchangeably with trauma-specific clinical interventions.²⁹ However, a trauma-informed approach encompasses a much more comprehensive model within and across systems that often requires that systems engage in certain fiscal, policy, and workforce development reform efforts.³⁰

Service systems designed to help people who have experienced trauma can sometimes re-traumatize the people they serve.³¹ This results from recreating situations or experiences that mirror or replicate past trauma, causing survivors to experience a similar level of distress in the present.³² Research has shown that the removal incident by child welfare services to protect the immediate safety and well-being of a child is often a traumatic experience.³³ Trauma is traditionally examined through the lens of what happened to a child before removal and sometimes what occurred to the child after removal; however, it is critical to consider how a child may experience trauma due to the removal.³⁴ Research, policy, and practice all indicate that child removal and entry into foster care evokes emotional and psychological trauma and is the most drastic safety intervention utilized by a child welfare agency.³⁵ Significant gaps exist in policy and practice, which fail to address the impact of child removal on children and their parents. The practice of removal, intended to mitigate serious, imminent harm, has the potential to cause serious, imminent harm itself.³⁶

Trauma screening and assessment

Trauma screening and assessment is designed to be able to be administered to every child within a given system (such as child welfare) to determine whether he or she has experienced trauma, displays symptoms related to trauma exposure, and/or should be referred for a comprehensive trauma-informed mental health assessment.³⁷ Trauma screening should evaluate the presence of two critical elements:

- Exposure to potentially traumatic events and experiences, including traumatic loss; and
- Traumatic stress symptoms and reactions.³⁸

Not all children who experience negative events suffer posttraumatic or trauma-specific reactions as a result.³⁹ Trauma screening should measure a wide range of experiences and identify common reactions and symptoms of trauma as well as other commonly reported difficulties.⁴⁰

²⁹ *Id.*

³⁰ *Id.*

³¹ Chapin Hall at p. 10

³² *Id.*

³³ See Sankaran, V., Church, et al., *A Cure Worse Than the Disease? The Impact of Removal on Children and Their Families*, University of Michigan Law School Scholarship Repository, 2019, available at <https://repository.law.umich.edu/articles/2055/> (last viewed March 7, 2023) (hereinafter cited as “A Cure”).

³⁴ *Id.* at p. 1166

³⁵ *Id.* at p. 1167

³⁶ *Id.* at p. 1168

³⁷ The National Child Traumatic Stress Network, *Trauma Screening, What is a Trauma Screening Tool or Process?*, available at <https://www.nctsn.org/treatments-and-practices/screening-and-assessments/trauma-screening> (last viewed March 7, 2023) (hereinafter cited as “NCTSN”).

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

With proper training, various professionals or paraprofessionals from child-serving systems can administer trauma screening tools or instruments.⁴¹

There are multiple requirements throughout law for specific screenings within the child welfare system; however there is not a requirement for a trauma specific screening or assessment.⁴²

Comprehensive Assessment

Current law defines a “comprehensive assessment” as the gathering of information to evaluate a child and caregiver’s physical, psychiatric, psychological, or mental health; developmental delays or challenges; and educational, vocational, and social condition and family environment.⁴³ This assessment is to evaluate the need for services, including substance abuse, mental health, developmental, literacy, medical, family, and other specialized services.⁴⁴

Comprehensive Behavioral Health Assessment (CBHA)

The DCF requires a CBHA for all children entering out-of-home care who are Medicaid eligible.⁴⁵ Any needs identified through the CBHA and recommendations for services must be included in the family’s case plan.⁴⁶ The CBHA is a Medicaid funded assessment with the following goals:

- Provide assessment of areas where no other information exists;
- Update pertinent information;
- Provide functional information;
- Provide specific information and recommendations to accomplish family preservation, reunification, or permanency planning;
- Provide data to promote the most appropriate out-of-home placement; and
- Provide information for development of an effective individualized treatment plan.⁴⁷

⁴¹ *Id.*

⁴² See generally s. 39.0016(2)(b)3.a., F.S., requiring a referral for screening for a child who has or is suspected of having a disability; s. 39.0(65), F.S., defining “preliminary screening” to mean the gathering of information to be used to determine a child’s need for substance abuse services; s. 39.407(1), F.S., authorizing the DCF to perform a medical screening on a child to examine a child for injury, illness, and communicable diseases; s. 39.407(4)(c), F.S., allowing a judge to order a screening for learning disabilities, other handicaps, and the need for alternative education; s. 39.4085, F.S., finding that a goal of the child welfare system is to have a full risk, health, educational, medical, and psychological screening; ss. 39.524 and 409.1754, F.S., requiring an assessment and screening for a child that is suspected of being or found to be a victim of commercial sexual exploitation; and s. 409.996(16), F.S., requiring the DCF to work with the Agency for Health Care Administration to provide a Medicaid-eligible child with a 72-hour screening under the Medicaid early and periodic screening, diagnosis, and treatment requirements.

⁴³ Section 39.01(17), F.S.

⁴⁴ *Id.*

⁴⁵ The DCF, Children and Families Operating Procedure (CFOP) 170-18 ch. 2-1, August 21, 2020, available at https://www.myflfamilies.com/sites/default/files/2022-12/cfop_170-18_chapter_02_comprehensive_behavioral_health_assessments.pdf (last viewed March 7, 2023).

⁴⁶ *Id.*

⁴⁷ Agency for Health Care Administration, *Specialized Therapeutic Services Coverage and Limitations Handbook*, 2-10, March 2014, available at https://ahca.myflorida.com/medicaid/review/Specific/59G-4.295_Specialized_Therapeutic_Services_and_Limitations_Handbook_Adoption.pdf (last viewed March 7, 2023).

The CBHA requires information gathering in many components related to the child and the child's family, including the following:

- Personal and family history;
- Placement history;
- Cognitive functioning;
- Medications;
- Substance use and abuse history;
- Mental health treatment history;
- Educational analysis;
- Cultural analysis;
- Present function; and
- Strengths.⁴⁸

A child protective investigator or dependency case manager must refer a child that has been removed from his or her home for a CBHA within seven calendar days of removal.⁴⁹ The CBHA provider must complete the assessment and send the report of the findings within 24 calendar days of receipt of the referral.⁵⁰ If at any point during the CBHA process a dependency case manager determines a child has an urgent need for immediate behavioral health treatment, the case manager will see appropriate services for the child.⁵¹

Trauma, including trauma specifically related to the child's removal, is not specifically referenced in the CBHA component requirements or process.

III. Effect of Proposed Changes:

The bill expands the duties of a lead agency under s. 409.988, F.S., and the contract requirements of the Department of Children and Families under s. 409.996, F.S., to require a lead agency, in coordination with the local managing entity, to provide a trauma-focused assessment to a child removed from his or her parent, legal custodian, or caregiver as soon as practicable but no later than 14 days after the shelter hearing. The assessment must ensure prompt referral for a child to appropriate trauma services, to include clinical evaluation and intervention if needed, and must address the impact of the removal of the child from his or her home.

The bill also requires a lead agency to offer voluntary trauma services to a child and his or her family in the event that a court denies the shelter petition and the child is returned to his or her parent, legal custodian, or caregiver.

The bill has an effective date of July 1, 2023

⁴⁸ *Id.* at 2-6 through 2-9.

⁴⁹ CFOP 170-18 at ch. 2-5a.

⁵⁰ *Id.* at d.

⁵¹ *Id.* at g.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill will likely have an indeterminate negative fiscal impact on the private sector as a lead agency may need to change operations, increase support, or increase contract amounts to meet the requirements of the bill.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 409.988 and 409.996 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
