



# The Florida Senate

Interim Report 2010-105

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Committee on Children, Families, and Elder Affairs

## REVIEW OF THE PROVISIONS OF INDEPENDENT LIVING SERVICES TO MINORS

### Issue Description

As of June 30, 2009, there were 3,359 youth ages 13 through 17 in licensed foster care eligible for independent living services in Florida,<sup>1</sup> a population at high risk of having difficulty managing the transition to adulthood.<sup>2</sup> While attention to their needs has increased significantly over the past decade, the services intended to help prepare them to live independently upon aging out of the system appear to remain limited and fragmented.<sup>3</sup>

Concerns continue to be raised as to whether those services are adequate to prepare foster youth to live independently as adults, whether all eligible youth are being served, and whether the direction and oversight of community-based care lead agencies and providers are sufficient to ensure that the goals of the program are being met.<sup>4</sup> These issues, epitomized by the May 2009 death of the infant whose mother was a 17 year old foster child placed in a subsidized independent living arrangement, suggest the need to review the provision of independent living services to minors in foster care.

### Background

Each year thousands of youth leave state foster care systems because they reach the age of 18 and are no longer eligible for out-of-home care. Since the early 1980's, research and anecdotal evidence have indicated that many of these young adults experience numerous difficulties in their attempts to achieve self-sufficiency. When compared to young adults with no exposure to the child welfare system, former foster youth are less likely to earn a high school diploma or GED and subsequently, have lower rates of college attendance.<sup>5</sup> They suffer more from mental health problems; have a higher rate of involvement with the criminal justice system; are more likely to have a difficult time achieving financial independence, thus increasing their reliance on public assistance; and experience high rates of housing instability and homelessness.<sup>6</sup>

### The Foundation – *Parens Patriae*

“Our current child welfare system is the product of grafting our legal institutions, federal structure, and multiple strands of social work theory onto the principle of *parens patriae*.”<sup>7</sup> The doctrine describes the state as protector of those unable to care for themselves.<sup>8</sup>

<sup>1</sup> Florida Safe Families Network (FSFN) Data Repository. Received from State Independent Living Coordinator, Department of Children and Family Services Office of Family Safety on September 17, 2009.

<sup>2</sup> Atkinson, M. (2008). *Aging Out of Foster Care: Towards a Universal Safety Net for Former Foster Youth*. Harvard Civil Rights-Civil Liberties Law Review, 43(1), 183-212.

<sup>3</sup> Report of Independent Living Services for Florida's Foster Youth (2008). Independent Living Services Advisory Council. (p. 6). Available at <http://www.dcf.state.fl.us/indliving/docs/AdvisoryCouncil/2008%20ILSAC%20Report.pdf>. (Last visited September 20, 2009); Improved Fiscal and Quality Oversight Is Needed for the Independent Living Program, Office of Program Policy Analysis and Government Accountability, Report No. 07-11. February 2007; and The Independent Living Transitional Services Critical Checklist (2008). Available at [http://www.dcf.state.fl.us/indliving/docs/ILSurveyChartbook20090105\\_AdvanceCopy.pdf](http://www.dcf.state.fl.us/indliving/docs/ILSurveyChartbook20090105_AdvanceCopy.pdf). (Last visited September 20, 2009.)

<sup>4</sup> *Id.*

<sup>5</sup> Courtney, M.A. and Heuring, D.H. (2005). The Transition to Adulthood for Youth “Aging Out” of the Foster Care System. In Osgood, D.W., Foster, E.M., Flanagan, C. & Ruth G.R. (Eds.), *On Your Own Without a Net: The Transition to Adulthood for Vulnerable Populations*. (pp. 33-34). Chicago, Illinois: The University of Chicago Press.

<sup>6</sup> *Id.* (pp.36-40).

<sup>7</sup> Stauts, Helen Cavanaugh. *Parens Patriae. The Federal Government's Growing Role of Parent to the Needy*. *Journal of the Center for Families, Children & the Courts*, Volume 2, 2000. Available at <http://www.courtinfo.ca.gov/programs/cfcc/resources/publications/journal/vol2.htm>. (Last visited September 28, 2009).

While Florida courts have long recognized the rights of parents to raise their children, those rights are “subject to the overriding principle that it is the ultimate welfare or best interest of the child which must prevail.”<sup>9</sup> In Florida, *parens patriae* gives the state the duty<sup>10</sup> and standing<sup>11</sup> to protect the health, comfort and welfare of its children. The state has the power to punish a parent who abuses or neglects a child, and if necessary, to remove that child from the parent's custody. The court can appoint a guardian when it appears “the parents are incapable of making decisions concerning their children, or if the parents' choice conveys a disregard for their child's welfare.”<sup>12</sup>

The policy of advancing the best interests of the child when exercising its *parens patriae* role is well established and guides the courts in many diverse contexts.<sup>13</sup> For example, the court in a child custody hearing is charged with determining what is in the best interest of the child based on a variety of factors, including: the demonstrated capacity and disposition of each parent to determine, consider, and act upon the needs of the child as opposed to the needs or desires of the parent; the moral fitness of the parent; and the mental and physical health of the parents.<sup>14</sup> The best interest of the child standard also controls when the court exercises *parens patriae* power in ensuring that children receive reasonable medical treatment, which is necessary for the preservation of life,<sup>15</sup> and when removing a child from a foster home to an adoptive home, in an attempt to achieve permanency.<sup>16</sup>

In order for the state to override the fundamental liberty interest in the parent-child relationship, its action must be narrowly tailored so as to produce the least intrusive interference with individual rights and there must be a sufficiently compelling state interest.<sup>17</sup> The court has determined that the preservation of life is the most significant state interest.<sup>18</sup> While there is no Florida case law directly addressing independent living, the cases above suggest that in similar circumstances, the court may be willing to recognize *parens patriae* as the basis to enforce legislation aimed specifically at protecting the health and well-being of minors in independent living.

### Federal Law - John H. Chafee Foster Care Independence Program

The federal government responded to the needs of foster care youth who age out by enacting the Foster Care Independence Act of 1999 (known as the CFCIP or the Chafee Act).<sup>19</sup> The Chafee Act provides states with flexible funding that enables programs to be designed and conducted to:

- Identify and assist youths who are likely to remain in foster care until 18 years of age;
- Provide education, training, and services necessary to obtain employment for those youths;

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<sup>8</sup> *Black's Law Dictionary*, 1144 (8th ed. 2004); *In re Beverly*, 342 So.2d. 481, 485 (Fla. 1977). Both the federal and Florida Constitution provide heightened protection against government interference with certain fundamental rights and liberty interests, including parents' fundamental right to make decisions concerning the care, custody, and control of their children. *Washington v. Glucksberg*, 521 U.S. 702 (1997). In *Kirton v. Fields*, the Florida Supreme Court adopted a presumption, established by the U.S. Supreme Court, that fit parents act in their children's best interests. *Troxel v. Granville*, 530 U.S. 57 (2000), *Kirton v. Fields*, 997 So.2d 349 (Fla. 2008). However, these parental rights are not absolute and the state may usurp parental control in certain situations by exercising its *parens patriae* power. *Kirton v. Fields*, 997 So.2d.

<sup>9</sup> B.P. Perlmutter, *Unchain the Children: Gault, Therapeutic Jurisprudence, and Shackling*, 9 BARRY L. REV. 1 (2007).

<sup>10</sup> *Fla. Dep't of Children & Families v. F.L.*, 880 So.2d 602 (Fla. 2004).

<sup>11</sup> Perlmutter, *supra* note 9.

<sup>12</sup> *Id.*

<sup>13</sup> *In re D.G.*, 970 So.2d. 486, 490 (Fla. Dist. Ct. App. 2007).

<sup>14</sup> See Fla. Stat. § 61.13 (3)(a)-(t) (2008) (listing factors a court may consider when determining the best interests of the child in a child custody case).

<sup>15</sup> *M.N. v. Southern Baptist Hosp. of Fla., Inc.*, 648 So.2d 769 (Fla. Dist. Ct. App. 1994).

<sup>16</sup> See *In re Adoption of Doe*, 2008 WL 5006172, (FLA. Cir. Ct. Nov. 25, 2008).

<sup>17</sup> *In re Guardianship of Browning*, 568 So.2d 4 (Fla.1990). The compelling interest argument was also raised in connection with familial association rights. The Florida Supreme Court has found that the Florida Constitution's right to privacy protects the fundamental right of parents to raise their children. The court has found no compelling state interest in imposing grandparental visitation rights on an intact family over objection of a parent, absent a showing of harm to the child. *Beagle v. Beagle*, 678 So.2d 1271 (Fla. 1996); *Von Eiff v. Azicri*, 720 So.2d 510 (Fla. 1998). The Court has relied on the state's *parens patriae* power to find that a parent does not have the authority to execute a pre-injury release on behalf of a minor child when the release involves participation in a commercial activity. *Kirton v. Fields*, 997 So.2d.

<sup>18</sup> *Id.* See also *M.N. v. Southern Baptist Hosp. of Fla., Inc.*, 648 So.2d.

<sup>19</sup> Public Law No. 106-169, 113 Stat. 1822 (1999). Federal funds for independent living initiatives were first made available under the Consolidated Omnibus Budget Reconciliation Act of 1985.

- Prepare those youths to enter postsecondary training and education institutions; and
- Provide support through mentors and the promotion of interactions with dedicated adults.<sup>20</sup>

Age restrictions were also eliminated, allowing states to offer independent living services to youth earlier than age 16.<sup>21</sup> The Chafee Act grants wide discretion to the states, allowing them to set their own criteria regarding which foster care youths receive services.<sup>22</sup> However, states must use objective criteria for determining eligibility for benefits and services under the programs and for ensuring fair and equitable treatment of benefit recipients.<sup>23</sup>

## Florida Law

With the enactment of federal legislation and increased available funding, the 2002 Florida Legislature established a new framework for the state's independent living transition services to be provided to older youth in foster care.<sup>24</sup> Specifically provided for was a continuum of independent living transition services to enable youth who are 13 to 17 years of age and in foster care to develop the skills necessary for successful transition to adulthood and self-sufficiency. Service categories established for minors in foster care include the following:<sup>25</sup>

CATEGORIES OF SERVICES	SERVICES INCLUDED	ELIGIBILITY
<b>Pre-independent living services</b>	Life skills training, educational field trips and conferences.	13 and 14 year olds in foster care.
<b>Life skills services</b>	Training to develop banking and budgeting skills, parenting skills, and time management and organizational skills, educational support, employment training, and counseling.	15,16, and 17 year olds in foster care.
<b>Subsidized independent living services</b>	Living arrangements that allow the child to live independently of the daily care and supervision of an adult in a setting that is not required to be licensed under s. 409.175, F.S.	16 and 17 year olds demonstrating independent living skills.

## Subsidized Independent Living (SIL)

### Florida law

Subsidized independent living provides an opportunity for youth ages 16-17 to receive a cash subsidy and other services from the Department of Children and Family Services (DCF or department), and placement in a living arrangement not required to be licensed and not under the daily care and supervision of an adult. Subsidized independent living arrangements established for a youth must be part of an overall plan leading to total independence from the department's supervision.<sup>26</sup> Florida law requires that youth who are ages 16-17 be formally evaluated for placement in a subsidized independent living arrangement,<sup>27</sup> if he or she:

<sup>20</sup> 42 U.S.C. § 677(2002).

<sup>21</sup> 42 U.S.C. § 677(b)(2)(C) (2002).

<sup>22</sup> 42 U.S.C. § 677(b)(2).

<sup>23</sup> 42 U.S.C. § 677(b)(2)(E).

<sup>24</sup> The department provided independent living services to older youth in foster care prior to the creation of s. 409.1451, F.S., with provisions for those services appearing in a number of sections of Florida Statutes, including s. 409.145, F.S., relating to care of children (2001), and 409.165, F.S., relating to alternative care of children (2001).

<sup>25</sup> Section 409.1451(4), F.S. The legislation also contained provisions for young adults who are 18 to 23 years of age who were formerly in foster care, including aftercare services, the Road-to-Independence Program, and transitional support services. See s. 409.1451(5), F.S.

<sup>26</sup> Section 409.1451(4)(c)3., F.S. The plan must include, but need not be limited to, a description of the skills of the child and a plan for learning additional identified skills; the behavior that the child has exhibited which indicates an ability to be responsible and a plan for developing additional responsibilities, as appropriate; a plan for future educational, vocational, and training skills; present financial and budgeting capabilities and a plan for improving resources and ability; a description of the proposed residence; documentation that the child understands the specific consequences of his or her conduct in the independent living program; documentation of proposed services to be provided by the department and other agencies, including the type of service and the nature and frequency of contact; and a plan for maintaining or developing relationships with the family, other adults, friends, and the community, as appropriate.

<sup>27</sup> Section 409.1451(4)(c)2., F.S.

- Is adjudicated dependent under chapter 39; has been placed in licensed out-of-home care for at least six months prior to entering subsidized independent living; and has a permanency goal of adoption, independent living, or long-term licensed care; and
- Is able to demonstrate independent living skills using established procedures and assessments.<sup>28</sup>

Florida law does not address the issue of placement in SIL in situations where a minor child in the custody of the department becomes a parent or enters licensed care with his or her own child.

### *Department rule*

The department adopted rules to specifically provide criteria for ways in which youth can demonstrate the independent skills that are required before being evaluated for placement in a SIL arrangement, which include:

- Employment or Extra-curricular activities. Must be employed at least part-time earning a minimum of \$100.00 per month or be involved in appropriate extra-curricular activities.
- Savings. Must have sufficient savings or other means to pay move-in and first month's living expenses.
- Education. Must be enrolled in a full-time educational program.
- Grades. Must maintain adequate progress as determined by the school or educational program.
- Assessment. Assessment of skills by completion of curriculum which should indicate that living in an unlicensed setting with minimal supervision is potentially viable.
- Behavior. Participants in a SIL placement are expected to exhibit responsible behavior. Letters of reference from school, mental health personnel, foster parents, Services Workers and the Department of Juvenile Justice should be requested if there is a history of irresponsible behavior.<sup>29</sup>

Department rules also address minor parents in the custody of DCF.<sup>30</sup> When a minor child in DCF's custody becomes a parent, the parent and child shall reside together unless the younger child's safety is at substantial risk in such placement or there is no foster home or facility available to house both. A petition for adjudication of dependency shall not be filed for the younger child unless there are grounds for dependency of that child independent of the minor parent's dependency.<sup>31</sup> In cases where the mother's ability to parent are in question or the mother has a delinquency history of violence, a psychological evaluation of the mother shall be obtained to assess coping skills, mental health issues and abilities to protect. The findings and recommendations in the evaluation shall be considered in determining if the mother can provide a safe environment for the child.<sup>32,33</sup>

## Findings

A 2004 survey of state independent living coordinators conducted by the Government Accountability Office (GAO) showed that about one-third of reporting states were serving less than half of their eligible foster care youth population, while an equal percentage of states were serving three-fourths or more.<sup>34</sup> The survey also determined that critical gaps remain in providing services, and many states reported challenges in engaging youth and foster parents in program participation.<sup>35</sup> For example, Florida and Washington officials said that some foster parents were reluctant to transport youth to classes or meetings because of scheduling conflicts or long distances from training locations and did not always reinforce classroom training in daily living skills by allowing youth to

<sup>28</sup> Section 409.1451(4)(c)2.a. and b., F.S.

<sup>29</sup> Rule 65C-28.009(7)(c), F.A.C., effective May 4, 2006. Exceptions to these criteria may be allowed by the District Administrator (DA), Chief Executive Officer of the Community-Based Care agency (CEO), or Independent Living Coordinator with the approval of the DA or CEO.

<sup>30</sup> As noted under discussion of Florida Law, *infra*, Florida law does not address the issue of placement in SIL in situations where a minor child in the custody of the department becomes a parent or enters licensed care with his or her own child.

<sup>31</sup> Rule 65C-28.010 (1), F.A.C., effective May 4, 2006.

<sup>32</sup> Rule 65C-30.016(5)(c), F.A.C., effective May 4, 2006.

<sup>33</sup> The department's operating procedure relating to subsidized independent living has not been updated since November 1999, prior to the 2002 amendment to Florida law.

<sup>34</sup> Government Accountability Office, HHS Actions Could Improve Coordination Of Services And Monitoring Of States' Independent Living Programs, GAO-05-25 (2004). Available at <http://www.gao.gov/new.items/d0525.pdf>. (Last visited September 15, 2009).

<sup>35</sup> *Id.* p. 4.

practice skills such as cooking or financial management.<sup>36</sup> A subsequent 2007 GAO report showed that while states and the U.S. Department of Health and Human Services have taken action to fulfill the accountability provisions of CFCIP, eight years later, little information is available to assess program outcomes.<sup>37</sup>

Today in Florida these same problems appear to continue. The purpose of this report is to review the provision of independent living transition services to minors who are ages 13-17. Senate professional staff chose to focus a portion of the review on service provision in Hillsborough, Brevard, and Leon counties. According to DCF, there is currently no method for tracking the provision of preindependent living services and life skills services for minors. The department reported that when the Florida Safe Families Network (FSFN) R2c<sup>38</sup> is released these services should be captured in FSFN.<sup>39</sup> In the absence of FSFN data related to these services, this project has relied on information and data from other sources.

### Office of Program Policy and Government Accountability (OPPAGA) Reports

OPPAGA has reviewed and evaluated the independent living transition services program three times since 2004 and has reported and recommended the following:

- In 2004, minimum standards for independent living services in the areas of life skills, housing, education, employment, health, aftercare and transitional services, training, and data collection and evaluation, were recommended.<sup>40</sup> The report emphasized that providers should not only track program results, but also how many youth they are reaching. At a minimum, the success of a provider's program should be based on how well foster youth progress on three major variables: education, life skills, and employment. Without minimum skills in these three areas, foster youth cannot hope to live self-sufficiently.<sup>41</sup>
- In 2005, OPPAGA sought to determine if the department was adequately monitoring the delivery of contracted independent living services.<sup>42</sup> OPPAGA concluded that while the department's oversight of community based care (CBC) providers has improved over time, more improvements are needed. Specifically, contracts have not established minimum standards of care for independent living programs and do not specifically require community providers to meet minimum standards for independent living, and quality management processes have not ensured that providers are delivering quality services.<sup>43</sup>
- In 2007, OPPAGA reported that improvement in fiscal oversight of the independent living program is needed to ensure that program resources are used as intended and in compliance with state and federal guidelines. It was determined that lack of information hinders the department's ability to provide oversight and assess the quality and level of independent living services. As a result, neither the department nor the CBCs can readily determine if foster youth receive the required independent living transition services. This also hinders the department and lead agencies' ability to accurately determine budget needs for serving this population.<sup>44,45</sup>

<sup>36</sup> *Id.* p. 25.

<sup>37</sup> Government Accountability Office, Child Welfare: HHS Actions Would Help States Prepare Youth in the Foster Care System for Independent Living. GAO-07-1097T (2007). Available at: <http://www.gao.gov/new.items/d071097t.pdf>. Last visited September 15, 2009.

<sup>38</sup> Florida's latest iteration of a Statewide Automated Child Welfare Information System (SACWIS), is known as the Florida Safe Families Network, or FSFN. The current projected release date for R2c is October 2009.

<sup>39</sup> Information received from State Independent Living Coordinator, Department of Children and Family Services Office of Family Safety on September 17, 2009.

<sup>40</sup> Project required by Chapter 2004-362(5), L.O.F. Independent Living Minimum Standards Recommended for Children in Foster Care, Office of Program Policy Analysis and Government Accountability, Report No. 04-78. November 2004. Available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/0478rpt.pdf>. (Last visited September 14, 2009).

<sup>41</sup> *Id.*

<sup>42</sup> Improvements in Independent Living Services Will Better Assist State's Struggling Youth, Office of Program Policy Analysis and Government Accountability, Report No. 05-61. December 2005. Available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/0561rpt.pdf>. (Last visited September 14, 2009).

<sup>43</sup> *Id.*

<sup>44</sup> Improved Fiscal and Quality Oversight Is Needed for the Independent Living Program, Office of Program Policy Analysis and Government Accountability, Report No. 07-11. February 2007. Available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/0711rpt.pdf>. (Last visited September 14, 2009).

<sup>45</sup> The evaluation also determined that DCF had not finished developing contractual standards and outcome measures for independent living services, as required by law, but had made some progress. See Chapter 2006-25, L.O.F. p. 83.

## Independent Living Services Advisory Council (ILSAC)

When the Florida legislature established a new framework for Florida's independent living transition services in 2002, the legislation provided for the creation of an independent living services integration workgroup tasked with assessing the implementation and operation of the redesigned program.<sup>46</sup> The 2008 ILSAC report stated:

In our 2006 report, the ILSAC developed a set of youth outcome measures that we encouraged the department to adopt and integrate. It was our expectation, the legislature and the Department would find elements of the baseline data so alarming that a sense of urgency and call to action would result in the immediate establishment of youth outcome measures and benchmarks in every community based care contract...In the last year, we still have not identified and established Florida's standard of acceptable youth outcome levels; and those acceptable youth outcomes have not been incorporated into CBC contracts. We do believe that DCF is not satisfied or accepting of the progress made and we also recognize that the wheels are sometimes slow in turning.<sup>47</sup>

The report summarizes 18 ILSAC recommendations from 2006 and 2007 and the implementation status of those recommendations by the department: six recommendations have not been achieved; six have been partially achieved; two are "in progress"; and four are "in progress: DCF priority issue for 2009-2010."<sup>48</sup>

## Independent Living Transitional Services Critical Checklist

In 2007, the Department began conducting an annual survey of youth in foster care and young adults formerly in foster care. The 2008 survey is a compilation of results from over 8,800 surveys.<sup>49</sup> The results for some categories within the survey for Leon, Hillsborough, and Brevard counties are in the following table.

MEASURE	LEON COUNTY <sup>50</sup>	HILLSBOROUGH COUNTY <sup>51</sup>	BREVARD COUNTY <sup>52</sup>
CBC reports youth has completed a current and age appropriate standardized life skills assessment within the last 12 months. <sup>53</sup>	73%	83%	71%
CBC reports youth has received services for areas identified by the life skills assessment as deficiencies.	21% yes 41% partially	49% yes 48% partially	36% yes 30% partially
Youth reports he or she has a written plan for participation in age appropriate activities. <sup>54</sup>	23%	58%	80%

<sup>46</sup> Section 409.1451, F.S. In 2004, the workgroup became the Independent Living Services Advisory Council.

<sup>47</sup> Report of Independent Living Services for Florida's Foster Youth (2008). Independent Living Services Advisory Council. (p. 6). Available at <http://www.dcf.state.fl.us/indliving/docs/AdvisoryCouncil/2008%20ILSAC%20Report.pdf>. (Last visited September 20, 2009).

<sup>48</sup> *Id.* (pp 7-8). Recommendations that have not been achieved include establishing provider accountability by implementing corrective actions as part of the ongoing quality assurance process and insuring that every Community Based Care Agency or other contracted providers meet benchmarks—not of services provided or youth served—but of outcomes achieved by youth participating in Independent Living Services.

<sup>49</sup> Independent Living Transitional Services Critical Checklist. (2008). The checklist contains information from three surveys: youth ages 13-17, young adults ages 18-22, and caseworkers for the 13-17 year olds. Available at [http://www.dcf.state.fl.us/indliving/docs/ILSurveyChartbook20090105\\_AdvanceCopy.pdf](http://www.dcf.state.fl.us/indliving/docs/ILSurveyChartbook20090105_AdvanceCopy.pdf). (Last visited September 20, 2009).

<sup>50</sup> Received from State Independent Living Coordinator, Department of Children and Family Services Office of Family Safety on September 17, 2009. "Leon County" for purposes of this chart also includes Jefferson, Gadsden, Liberty, Franklin, and Wakulla counties. The lead agency serving this area is Big Bend Community Based Care, Inc.(East). As of June 30, 2009 Leon County had 66 youth aged 13-17 in licensed care.

<sup>51</sup> *Id.* The lead agency serving this area is Hillsborough Kids, Inc. As of June 30, 2009 Hillsborough County had 289 youth aged 13-17 in licensed care.

<sup>52</sup> *Id.* The lead agency serving this area is Brevard Family Partnership. As of June 30, 2009 Brevard County had 78 youth aged 13-17 in licensed care.

<sup>53</sup> The standardized life skills assessment for purposes of this survey is the pre-independent living assessment provided at age 13-14, the independent life skills assessment provided at age 15 or 16, and the independent living assessment provided at page 17. These assessments are statutorily required. *See* s. 409.1451(4), F.S.

Youth, as determined by their school, is at or above grade level.	34%	63%	58%
CBC reports youth has passed grade level FCAT.	42%	66%	61%
CBC reports youth has an educational and career path which has been developed into a written plan. <sup>55</sup>	35%	51%	36%
CBC reports youth's educational and career path plan has been filed with the court. <sup>56</sup>	33%	47%	16%
Youth reports an opportunity to participate in job training.	23%	25%	24%
Youth reports seeing a doctor or dentist in the past year.	78% doc 70% dent	83% doc 62% dent	88% doc 68% dent
CBC reports youth has successfully completed a driver's education course. (Ages 15-17)	11%	8%	10%
CBC reports youth has signed independent living transition plan and it has been filed with the court.	55%	75%	40%
Youth reports being involved in developing case plan.	43%	53%	63%
CBC reports youth being connected with an adult mentor in the community.	32%	37%	66%

The 2008 ILSAC report commented that “while we recognize the great accomplishment of the Department in their efforts to collect baseline data on over 7,000 youth and young adults in 2007 – the baseline data indicates significant areas of deficit in both youth achievement and CBC service delivery practice.”<sup>57</sup> A comparison of results contained in the 2007 and 2008 checklists appears to indicate that there is no definitive pattern of improvement in any of the three counties included in the chart. Statewide averages for these categories varied considerably, with Hillsborough and Brevard Counties performing slightly above the statewide average in most categories and Leon County performing below the statewide average in most categories.<sup>58</sup>

### Department of Children and Family Services Report on Outcome Measures and Oversight Activities

DCF is required to develop outcome measures for the independent living transition services program and other performance measures in order to maintain oversight of the program, and provide an annual report to the legislature.<sup>59</sup> The department's Contract Oversight Unit randomly selected cases of youth eligible to receive independent living services and young adults formerly in foster care and conducted a file review to determine if the requirements of Florida Statute and Florida Administrative Code were met. The 2009 report contains the following table summarizing the monitoring of the CBC lead agencies for the 2007-2008 fiscal year, and the action taken by the department to address identified deficiencies.<sup>60</sup>

Circuit	CBC	Identified Areas of Deficiency (Specific to IL Services)	DCF Response (Specific to IL Services)
1	Families First Network	Independent Living referrals and assessments were not completed or not completed timely	Corrective Action Plan is in place

<sup>54</sup> Written plan is statutorily required. *See* s. 409.1451(3), F.S.

<sup>55</sup> Educational and career path plan is statutorily required. *See* s. 409.1451(3), F.S.

<sup>56</sup> The statute requires the educational and career path plan to be developed for each child in foster care who has reached 13 years of age. This path plan is to be included as part of the case plan and reviewed at each judicial hearing. *See* s. 409.1451(3)(b)1., F.S.

<sup>57</sup> Report of Independent Living Services for Florida's Foster Youth (2008). Independent Living Services Advisory Council. (p. 6). Available at <http://www.dcf.state.fl.us/indliving/docs/AdvisoryCouncil/2008%20ILSAC%20Report.pdf>. (Last visited September 20, 2009).

<sup>58</sup> Independent Living Transitional Services Critical Checklist. (2008). The checklist contains information from three surveys: youth ages 13-17, young adults ages 18-22, and caseworkers for the 13-17 year olds. Available at [http://www.dcf.state.fl.us/indliving/docs/ILSurveyChartbook20090105\\_AdvanceCopy.pdf](http://www.dcf.state.fl.us/indliving/docs/ILSurveyChartbook20090105_AdvanceCopy.pdf). Last visited September 20, 2009.

<sup>59</sup> Section 409.1451(6), F.S.

<sup>60</sup> Report on Outcome Measures and Oversight Activities of the Independent Living Transition Services Program. Department of Children and Family Services. January 2009. Available at <http://www.dcf.state.fl.us/indliving/>. (Last visited September 20, 2009).

2, 14	Big Bend CBC	None <sup>61</sup>	N/A
3, 8	Partnership for Strong Families	Independent living services were not provided as required (Repeat Finding)	Corrective Action Plan is in place
4 (Clay and Baker)	Clay & Baker Kids Net, Inc.	Independent Living Files were not complete	Corrective Action Plan is in place
4 (St. Johns)	Family Integrity Program	Road to Independence file was not complete (Repeat Finding)	Corrective Action Plan is in place
4	Family Support Services of North Florida	Independent Living Files were not complete (Repeat Finding)	Corrective Action Plan is in place
5	Kids Central, Inc.	Independent living requirements not met (Third Year Repeat Findings)	Corrective Action Plan is in place
7	Community Partnership for Children	Independent Living Files lacked required documentation (Repeat Finding)	No Corrective Action Plan required. Issues were resolved
9	Family Services of Metro- Orlando	Independent Living records lacked required documentation (Repeat Finding)	Corrective Action Plan is in place
10	Heartland for Children	Independent Living services were not in compliance with requirements (Repeat Finding)	Corrective Action Plan is in place
6, 12	Sarasota YMCA	None	N/A
13	Hillsborough Kids	None	N/A
15	Child and Family Connections	Independent Living files were missing documentation	Corrective Action Plan is in place
18	CBC of Seminole	Independent Living Files lacked required documentation (Repeat Finding)	Corrective Action Plan is in place
18	CBC of Brevard	Independent Living records lacked required documentation (Repeat Finding)	Corrective Action Plan is in place
19	United for Families	Independent Living files missing required elements (Repeat Finding)	Corrective Action Plan is in place
20	Children's Network of SW Florida	None	N/A

Programmatic monitoring of OurKids of Miami-Dade/Monroe, Inc., and of ChildNet, Inc., was conducted by the Chapin Hall Center for Children at the University of Chicago for the fiscal year 2007-2008.<sup>62</sup> Chapin Hall's monitoring addresses elements similar to the Department's Contract Oversight Unit and Quality Assurance System. The November 2008 Annual Summary prepared by Chapin Hall specific to the independent living services being provided by ChildNet of Broward County includes the following:<sup>63</sup>

- There is limited use of the Ansell-Casey Assessment for youth 13 through 17.
- Re-assessments are not occurring within the required timeframe.
- There is limited evidence to suggest that the assessment is utilized during the development of the independent living plan.

<sup>61</sup> While the chart indicates that the majority of the community-based care lead agencies had corrective action plans in place at the time the 2009 Report on Outcome Measures and Oversight Activities was published, a notable exception is Big Bend Community Based Care, Inc. in the 2nd DCF circuit. This lead agency was listed as having no deficiencies despite the fact that the 2008 checklist revealed it to be one of the lowest performing in the state on many of the measures. This can possibly be explained by the fact that identified areas of deficiency appear to be related to documentation rather than service delivery and performance. Hillsborough Kids, Inc., also had no deficiencies; its performance numbers are higher than those achieved by Big Bend Community Based Care, Inc. in most categories.

<sup>62</sup> As required by Chapter 2006-30, L.O.F.

<sup>63</sup> Report on Outcome Measures and Oversight Activities of the Independent Living Transition Services Program. Department of Children and Family Services. January 2009. Available at <http://www.dcf.state.fl.us/indliving/>. (Last visited September 20, 2009).

- The independent living staffing forms were noted in a limited number of cases.
- Independent living plans are being utilized in only a small portion of the cases reviewed.
- There is limited evidence to indicate that annual staffing is utilized to evaluate the youth's progress toward the independent living goals.
- There were a limited number of life skill classes documented in the case records reviewed.

Findings by Chapin Hall related to independent living services being provided by OurKids of Miami-Dade/Monroe Counties were the same, with the addition of the determination that children in relative/non-relative placements are not receiving independent living services.<sup>64</sup>

### ***Subsidized Independent Living***

As of August 2009, there were 40 foster youth in subsidized independent living arrangements statewide.<sup>65</sup> The case of Jasmine Bedwell, a 17 year old foster youth with a three-month-old child, provides an example that DCF and the staff of community based care lead agencies do make exceptions to the criteria which are to be used to determine if a foster youth is an appropriate candidate for a subsidized independent living arrangement.<sup>66</sup>

On May 5, 2009, three-month old Emanuel Murray died when he was allegedly thrown out of a moving vehicle by his mother's paramour. His mother was living in a subsidized independent living arrangement at the time of Emanuel's death, even though she did not meet the criteria for this type of placement.<sup>67</sup> The mother was approved to live in a subsidized independent living setting. Staff of Hillsborough Kids, Inc., believed that since the mother had a history of being a chronic runaway, a more restrictive placement may have increased the risk of her running away again and being on the streets without medical care.<sup>68</sup> It is unclear whether limited placement options contributed to the decision to approve a subsidized independent living arrangement.

In addition to issues with the CBC's assessment of the suitability of the mother for a subsidized independent living placement, the issue summary also notes problems with the service strategy implemented, with the identification and assessment of all key risk factors presenting in the case, and with the inadequate assessment of domestic violence dynamics present.<sup>69</sup>

### ***Funding for Independent Living Transition Services***

For Fiscal Year 2008-2009, the department budget for the Independent Living Transition Services Program was \$31.7 million. The program was \$6.8 million over budget, with \$38.5 million being expended as follows:

<b>Admin and Support</b>	<b>Subsidized Independent Living</b>	<b>Road to Independence Program</b>	<b>Transitional Services</b>	<b>Aftercare Services</b>
\$8,834,560	\$833,921	\$23,390,749	\$4,349,971	\$1,056,032

<sup>64</sup> *Id.*

<sup>65</sup> Received from State Independent Living Coordinator, Department of Children and Family Services Office of Family Safety on September 17, 2009.

<sup>66</sup> 65C-28.009(7)(c), F.A.C. Exceptions to these criteria may be allowed by the District Administrator (DA), Chief Executive Officer of the Community-Based Care agency (CEO), or Independent Living Coordinator with the approval of the DA or CEO.

<sup>67</sup> In an issue summary dated May 27, 2009, it was noted that, inconsistent with program criteria, the mother's juvenile offending history of violence-related offenses is significant; case management staff understood the mother was a marginal candidate for living independently; it did not appear that letters of reference were obtained from all appropriate parties; there appears to have been insufficient consideration given to assessing the child's immediate and/or ongoing safety in comparison to the consideration of maintaining the mother in independent living status; and consideration should have been given to relocate the mother and her child immediately to an undisclosed location to ensure their safety while the mother received appropriate domestic violence services and supports. Issue Summary from Nicholas Cox, DCF Regional Director to Peggy Neirmann, DCF Operations Review Specialist. May 27, 2009. Available at <http://media.tbo.com/tbo/pdfs/052809bedwelldocs.pdf>. (Last visited September 28, 2009).

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

With the exception of administration and support and subsidized independent living services, funding designated for independent living services was spent on former foster care youth ages 18-22. The CBC lead agencies have the discretion to cover any deficit, as well as services provided to youth ages 13-17, out of other contract dollars.<sup>70</sup>

For fiscal year 2009-2010, \$35.6 million has been budgeted for the Independent Living Transition Services Program from a number of sources.<sup>71</sup> This represents a \$3.9 million increase in the budget from fiscal year 2008-2009, but is \$2.9 million less than was actually spent in fiscal year 2008-2009.

FEDERAL		STATE			
Chafee ILP	Chafee ETV	Chafee ILP Match	Chafee ETV Match	General Revenue	Title IV-E
\$7,046,049	\$2,396,966	\$1,761,513	\$599,241	\$21,303,202	\$2,495,646

### Conclusion

While community based care lead agencies and their contracted providers have increased partnerships with community organizations to provide opportunities to assist youth aging out of foster care,<sup>72</sup> the data reflected in the latest critical checklist indicates that they have not been able to provide the foster care youth the services required by Florida law, even though many of the provisions governing the services to teens in foster care and young adults aged-out of foster care have been part of the Florida statutes for seven years.<sup>73</sup> In Leon County, for example, Big Bend Community Based Care, Inc. (East) had 66 youth 13-17 year olds in licensed care who are eligible for independent living transition services as of June 30, 2009, and yet only 34% are at or above grade level in school; 35% have an educational and career path developed into a written plan; and 33% have an educational and career path plan filed with the court.<sup>74</sup>

Brevard County has reported that each year an average of 130 children are part of Brevard Family Partnership's Independent Living population.<sup>75</sup> In recent years, Brevard Family Partnership has taken a large number of those participating in the independent living program on an annual educational and community service outing to foster normalcy and civic mindedness. The first year's trip was to Washington D.C.; the second year of the program, participants traveled to New Orleans where they worked with Habitat for Humanity restoring homes devastated by Hurricane Katrina before spending some time in the historic French Quarter; and in 2007, the youth visited New York City, with a stop at Ground Zero to pay tribute to the victims of 9/11.<sup>76</sup> While these are extraordinary opportunities for participating youth, the CBC's April 28, 2009, performance review reports the following relating to youth ages 13-17 in the independent living program:

- Children are not being referred timely
- Children are not being staffed timely
- Mandated 17 and 17 ½ year court hearings are not documented<sup>77</sup>

<sup>70</sup> Received from State Independent Living Coordinator, Department of Children and Family Services Office of Family Safety on September 17, 2009.

<sup>71</sup> *Id.*

<sup>72</sup> Report of Independent Living Services for Florida's Foster Youth (2008). Independent Living Services Advisory Council. (p. 6). Available at <http://www.dcf.state.fl.us/indliving/docs/AdvisoryCouncil/2008%20ILSAC%20Report.pdf>. (Last visited September 20, 2009).

<sup>73</sup> The Independent Living Transitional Services Critical Checklist (2008). Available at [http://www.dcf.state.fl.us/indliving/docs/ILSurveyChartbook20090105\\_AdvanceCopy.pdf](http://www.dcf.state.fl.us/indliving/docs/ILSurveyChartbook20090105_AdvanceCopy.pdf). (Last visited September 20, 2009).

<sup>74</sup> *Id.*

<sup>75</sup> Community Based Care of Brevard. Annual Report. (2007). Available at [http://www.brevardfp.org/docs/CBC\\_Annual\\_Report\\_for\\_web\\_final.pdf](http://www.brevardfp.org/docs/CBC_Annual_Report_for_web_final.pdf). (Last visited September 22, 2009).

<sup>76</sup> *Id.*

<sup>77</sup> Performance Review April 28, 2009. Community Based Care of Brevard. Available at [http://www.brevardfp.org/docs/PR\\_04282009.pdf](http://www.brevardfp.org/docs/PR_04282009.pdf). (Last visited September 22, 2009).

## Options and/or Recommendations

Based upon the findings in this report, the Legislature may wish to consider the following options:

Regarding subsidized independent living placements:

- Amend s. 409.1451, F.S., to make assessments for subsidized independent living placements permissive rather than mandatory because the majority of 13-17 year olds in foster care do not meet the criteria for this living arrangement.
- Amend s. 409.1451, F.S., to specify criteria that a candidate for a subsidized independent living placement must meet in order to be considered for placement, require written documentation that each criterion has been met, and limit or eliminate the ability to make exceptions to these criteria.
- Require the department to immediately move a foster youth who is living in a subsidized independent living arrangement to a safe undisclosed location upon becoming aware of any situation involving domestic violence.
- Require additional training for all child protective investigators and case workers on issues and dynamics related to domestic violence or dedicate specialized positions to investigate and provide case management for all cases involving instances of domestic violence.
- Require the department to submit a plan to the legislature detailing how DCF would create and define a new placement option for minors in foster care who are parents or about to become parents similar to the whole family foster home placement option in California that is designed to facilitate the development of skills necessary for a parenting foster youth to provide a safe, stable and permanent home for the child, and to improve placement stability for these youth and their children.

Regarding the provision of independent living transition services to youth in foster care 13 to 17 years of age:

- Continue to require the department to develop outcome measures for independent living transition services as it has been required to do since 2002.
- Continue to require the department to establish minimum standards for independent living transition services for current and former foster youth and incorporate minimum independent living standards into lead agency contracts; to develop measures for assessing the effectiveness of lead agency performance in meeting these minimum standards; and to begin monitoring lead agency performance in accordance with these requirements as they have been required to do since 2006.
- Require DCF and the CBCs to place increased focus and funding on the foster youth ages 13 to 17.
- Require the department to direct resources into training and other support for foster parents and group home parents who are critical to the success of youth acquiring independent living skills.
- Consider the recommendations that will be included in the 2009 annual report of the ILSAC, which will be available December, 31 2009.