

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 1098  
 SPONSOR: Senator Garcia  
 SUBJECT: Foster Parents  
 DATE: January 31, 2002      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dowds	Whiddon	CF	Favorable
2.			JU	
3.			AHS	
4.			AP	
5.				
6.				

## I. Summary:

SB 1098 creates the Foster Parent Act which statutorily establishes foster parents as integral players in the child welfare system. A series of responsibilities is set forth for both the Department of Children and Families and for foster parents. The department and agencies providing foster care services are charged with implementing these responsibilities and preparing an annual plan. The bill also prohibits the department from removing a child from a foster home when the foster parent's application for adoption has been denied, except under certain circumstances.

This bill substantially amends section 39.812 of the Florida Statutes. The bill creates section 409.1684 of the Florida Statutes.

## II. Present Situation:

### Florida Foster Parents

The Department of Children and Families is directed to establish and administer a program for children found dependent by the court under ch. 39, F.S., and their families (ss. 409.145 and 409.165, F.S.). Included in this program are foster homes and other appropriate facilities that can offer shelter and care to the dependent children when they must be placed away from their families. Foster homes are private residences that provide 24-hour care for children and can be found in the form of emergency shelter family homes, family foster homes, family foster group homes and specialized foster homes for children with special needs [s. 409.175(2)(e), F.S.]. The ability to be a licensed foster home is stipulated in statute as a public trust and privilege, not an entitlement [s. 409.175(1)(f), F.S.].

The growing demand for foster parents and increasing difficulty in recruiting and retaining foster parents are problems that Florida and other states are experiencing. In a study conducted by the University of Florida and University of South Florida of the perspectives of foster parents, children in foster care and department staff on recruitment and retention issues, respondents reported that foster children and parents are often left on their own without support from the department but that the department was overburdened and staff were unable to do their jobs. Foster parents also complained of not being treated as a true “partner” in the care of the foster child despite what they are told in the pre-service training prior to licensure. The Casey Family Programs Foundation report, *Lighting the Way: Attracting and Supporting Foster Parents, 2000*, identified best practices for recruiting and retaining foster parents. Included in these best practices was the need for states to clarify the roles and responsibilities of foster families and provide them with training and support to succeed in their roles.

Currently, Florida Statutes, administrative rules and operating procedures governing and guiding foster parents and their role in the child welfare process focus broadly on the following areas: licensing of foster homes, provision of training, placement of a child in foster care, the foster parents involvement in the dependency process, the responsibilities of the foster parents, the responsibilities of the department to the foster parents and investigating complaints.

Licensure of Foster Homes: In order for a child to be placed in a foster home, the home must be licensed [s. 409.175(3)(a), F.S.]. The requirements a foster home must meet for licensure pertain to the operation, conduct and maintenance of the home and the responsibility assumed by the foster parents for the children they serve [s. 409.175(4)(a), F.S.].

Training for Foster Parents: The department is responsible for providing pre-service and in-service training to foster parents [s. 409.175(13), F.S.]. A minimum of 21 hours of pre-service training is required of foster parents as a condition of licensure and is provided as part of the MAPP Group Preparation and Selection program which is a 10 week course of study used to prepare and select prospective shelter, foster and adoptive parents. The specifics of the MAPP program are set forth in Rule 65C-13.009, F.A.C. Foster parents must also complete 8 hours of in-service training as a condition of license renewal.

Placement of a Child in Foster Care: A child may be voluntarily placed in foster care by his/her parents or custodians or involuntarily placed when the court has found the child dependent, pursuant to ch. 39, F.S. [ss. 409.145(2) and 409.165(3), F.S., and Operating Procedure No. 175-34, Removal and Placement of Children].

Involvement in Dependency Process: Chapter 39, F.S., provides for foster parents to be notified of judicial review, to receive copies of certain reports, to be given the opportunity to address the court regarding the child and to have their role in developing the child’s services articulated in the case plan.

Responsibilities of the Foster Parent: Rule 65C-13.010, F. A.C., sets forth the responsibilities of the foster parent to the child, to the child’s family, to the foster parent’s family and to the department. The broad overarching expectations of foster parents include giving the child love, acceptance and care, providing an opportunity for normal growth and development, and preparing the child to return to the parents or permanent placement. Specific responsibilities are

outlined relative to daily living tasks, food and nutrition, clothing and personal belongings, religion and ethnic heritage, health and education.

Responsibilities of the Department to Foster Parents: Rule 65C-13.010, F. A.C., also delineates the responsibilities of the department to the foster parent and child. The rule includes involving the foster parent as a team member, sharing of information on the child with the foster parent, involving the foster parent in all major decisions of the child and providing notice of judicial or administrative reviews. In accordance with s. 409.1753, F.S., the department is also required to provide each foster parent with a telephone number that can be used by the foster parent during normal working hours when immediate assistance is needed and the case worker is not available.

Complaint Investigations: The department is authorized to investigate complaints to determine whether the licensing requirements are being met [s. 409.175(7)(b), F.S.]. The foster home is to be advised of the complaint and provided a written report of the results of the investigation.

### **Adoptions by Foster Parents**

Children whose parents' parental rights have been terminated and who are in the custody of the department will continue their placement with the department for the purpose of adoption [s. 39.811(2), F.S.]. Foster parents of the child are considered potential adoptive families [Rule 65C-16.005(3), F.A.C.]. Administrative Rule 65C-16.002(4), provides that foster parents who have an interest in and capacity for being adoptive parents are to be encouraged to consider adoption. However, situations whereby the foster parent may not be the placement choice for the child include when the child does not want to be adopted by the foster parent, the foster parent does not want to adopt the child's sibling, the health status of the foster parent jeopardizes the child's opportunity for permanency or compromises the foster parent's ability to care for the child, the foster parent knowingly withheld information, the foster parent has returned other adopted children to the department, and the foster parent has a chronic history of failing to pay child support.

In evaluating the potential adoptive families and the appropriateness of the match for the child, the department considers such aspects as the child's choice, the adoptive families' previous child rearing experiences, commitment to respect and educate the child about his or her heritage, marital status, residence, income, adequate space and living conditions of the home and neighborhood, health, other children in the family and willingness to provide medical care [Rule 65C-16.005(5), F.A.C.]. All adoption applicants who have been rejected are to be reviewed by the Adoptive Applicants Review Committee which is to consist of at least three individuals, one of whom must be the Adoption and Related Services program specialist. A written report of the committee's review is to be submitted to the department's district legal counsel with a final report to the district administrator who will make the final decision to approve or reject the applicant's adoption request.

### **III. Effect of Proposed Changes:**

SB 1098 creates the Foster Parent Act which statutorily establishes foster parents as integral players in the child welfare system. A series of responsibilities is set forth for both the

Department of Children and Families and for foster parents. The department and agencies providing foster care services are charged with implementing these responsibilities and preparing an annual plan. The bill also prohibits the department from removing a child from a foster home when the foster parent’s application for adoption has been denied, except under certain circumstances.

SB 1098 sets forth legislative findings and intent relative to the essential services provided by foster parents to the children and their families and the partnership role of foster parents in the child welfare system. The bill states that foster parents need to be committed to the statutorily established goals for dependent children, to be sensitive to issues relative to the children’s heritage and connections with families and to maintain a high level of professional conduct. The legislative finding of the need for public policy regarding the role of foster parents is expressed as is the intent to enact the Foster Parent Act.

Section 409.1684, F.S., is created and cited as the “Foster Parent Act.” This section provides for responsibilities of the department to a foster parent and responsibilities of a foster parent. Many of the responsibilities set forth in the bill currently exist in Florida Statute, administrative rule or operating procedures. Some of the responsibilities are either new or only partially found in the existing governing provisions for foster parents. Following is a chart of the responsibilities identified in the newly created s. 409.1684, F.S., and the identification of existing statute, administrative rule or operating procedures (referred to as CFOP) related to each responsibility.

Department Responsibilities Found in Newly Created s. 409.1684, F.S.	Responsibilities Found in Existing Statute, Rule or Operating Procedure.
Treat foster parents with dignity, respect and as a professional participant.	No corresponding provision found.
Provide pre-service and ongoing training based on mutually assessed needs of foster parent.	21 hours of pre-service, via the MAPP, and 8 hours of in-service training are provided to the foster parent [s. 409.175(13), F.S., Rule 65C-13.003, and Rule 65C-13.009]. Mutual assessment of training needs not addressed.
Provide contact information to receive information and assistance with services.	Telephone number must be provided for contact with department when case worker cannot be reached (s. 409.1753, F.S.).  Names and phone number of emergency contacts are to be provided to the foster parent [Rule 65C-13.010(5)(p)].
Provide timely reimbursement commensurate with needs of child.	The minimum monthly foster home care board rates are set forth in memo to the District Administrators. However, no provisions exist that provide for timely reimbursements to foster parents, other than standard fiscal procedures.

<p>Provide written understanding of agency’s plan for placement of child.</p>	<p>All available information on a child that would enable the foster parent to make a decision on the placement and provide appropriate care is to be provided to the foster parent [Rule 65C-13.010(5)(b) and CFOP 175-34 (4)(i)].</p> <p>A copy of the agency’s and guardian ad litem’s written report required for the judicial review must be provided to the foster parent 72 hours prior to the hearing [s. 39.701(6)(b), F.S.].</p>
<p>Provide impartial investigation of complaints, allow a person chosen by the foster parent to be present during the investigation, provide due process, provide the right to request mediation or administrative review, and provide that corrective action plans be explained and tied to licensing standards violated.</p>	<p>The department is required to investigate complaints to determine if the home is meeting the licensing requirements. The department is to advise the home of the complaint, provide a written report of the results of the investigation, discuss the violations with the foster parents and, if not a violation that possess an immediate threat to the child, recommend a corrective action plan with time frames [s. 409.175(7) and (10), F.S., and CFOP 175-58]. An administrative review pursuant to ch. 120, F.S., is provided to foster parents in response to the department’s denial, revocation or suspension of their license (s. 120.569, F.S.).</p> <p>Stipulated process does not provide for the presence of a representative of the foster parent.</p>
<p>Providing additional information on the child during the placement.</p>	<p>All available information on a child that would enable the foster parent to make a decision on the placement and provide appropriate care is to be provided to the foster parent [Rule 65C-13.010(5)(b), (c) and (d) and CFOP 175-34 (4)(i)].</p> <p>The department counselor is to provide consistent feedback to the foster parent on their work with the child and provide on-going information on the progress of the permanency plan [Rule 65C-13.010(5)(q) and (r)].</p>

<p>Notifying the foster parent of meetings to allow the foster parent to participate in decision making regarding the child. Notifying the foster parent of the right to be informed of decisions made concerning the child. Notifying the foster parent of the right to provide input into the plan of services for the child and to communicate with other professionals providing services to the child.</p>	<p>A copy of the agency’s and guardian ad litem’s written report required for the judicial review must be provided to the foster parent 72 hours prior to the hearing [s. 39.701(6)(b), F.S.].</p> <p>The foster parent shall be given the opportunity to address the court with any information relevant to the best interests of the child [s. 39.701(6)(d), F.S.].</p> <p>The case plan must establish the role of the foster parent in the development of the services for the child [s. 39.601(3)(e), F.S.].</p> <p>MAPP was developed to both prepare the foster parents for caring for the children and to work as partners in permanency planning [Rule 65C-13.009(1)]. The department is to involve the foster parent, as a team member, in all major decisions for the children. The department must involve the foster parent in the development of permanency plans or visitation contracts [Rule 65C-13.010(5)(e) and (h)].</p>
<p>Provide timely and consistent information regarding the child and the child’s family that is pertinent to the care of the child and developing a permanency plan.</p>	<p>The department counselor is to provide consistent feedback to the foster parent on their work with the child and provide on-going information on the progress of the permanency plan [Rule 65C-13.010(5)(q) and (r)].</p>
<p>Provide the foster parent written notice of changes in the child’s case plan and of plans to terminate the placement of the child with the foster parent.</p>	<p>A copy of the amended case plan must be immediately given to the foster parent [s. 39.701(9)(e) and (f), F.S.].</p> <p>The department counselor must inform the foster parent immediately of any changes to the permanency plan [Rule 65C-13.010(5)(r)].</p> <p>The department must give a minimum of two weeks notice prior to moving a child out of the foster home, except in an emergency or by order of the court [Rule 65C-13.010(5)(i)].</p>
<p>Notifying the foster parent of all court hearings.</p>	<p>Notice of the judicial review hearing must be served on the foster parent [s. 39.701(5)(b), F.S., and Rule 65C-13.010(5)(f)].</p>

<p>Consider the foster parent a placement option for a foster child formerly placed with the foster parent who is reentering the system.</p>	<p>Waivers to allow more than five children in the foster home may be considered to accommodate a child who has previously lived in the foster home (CFOP 175-64). Note, this only addresses circumstances where placement of the child would result in the foster home exceeding its maximum capacity.</p>
<p>Providing the foster parent with access to the appeals process and the right to be free from retaliation when exercising the right to appeal.</p>	<p>No corresponding provision found.</p>
<p>Informing the foster parent of his/her rights concerning reports of misconduct and the investigation and confidentiality of such reports.</p>	<p>The department’s protective investigative staff and family care counselor must immediately investigate abuse or neglect complaints against a foster parent and will notify the state attorney’s office in accordance with child abuse statutes. This policy and procedure is to be discussed with the foster parent prior to licensing and with every relicensing. [Rule 65C-13.010(5)(j)].</p> <p>The only misconduct identified to be investigated are complaints of violations of licensing requirements and of abuse and neglect.</p>

Responsibilities of Foster Parents	Responsibility Found in Existing Statute, Rule or Operating Procedure.
<p>Openly communicate and share information on the child with participants in the system.</p>	<p>No corresponding provisions found.</p>
<p>Respect and act within the laws regarding the confidentiality of information</p>	<p>Foster parents must maintain the child’s record in an secure manner that insures confidentiality [Rule 65C-13.010(1)(c)4.].</p>
<p>Advocate for the children in their care.</p>	<p>No corresponding provisions found.</p>
<p>Treat the child and his/her family with dignity and respect.</p>	<p>The foster parent must present a positive image and demonstrate respect for the child’s family [Rule 65C-13.010(2)(a)].</p>

<p>Recognize the foster parent’s own individual and family strengths, limitations and support needs when deciding whether to accept a child.</p>	<p>The goal of MAPP is to prepare individuals and families to make informed decisions regarding becoming a foster parent, including assessing the individual and family strengths and needs and building on those strengths and needs [Rule 65C-13.009(1)(e)1.]. The department is required to conduct a joint evaluation with the foster parent during the relicensure process that includes the impact that foster parenting has had on the family [Rule 65C-13.010(2)(c) and (e)].</p>
<p>Be aware of benefits of affiliating with other foster parents and foster parent associations.</p>	<p>An attribute that MAPP indicates a foster parent should have and that MAPP addresses is developing and working in partnership with the children, children’s families, department and community [Rule 65C-13.009(1)(e)5. and (7)(k)]. However, this appears to pertain to developing partnerships in general and does not address developing relationships with other foster parents or associations.</p>
<p>Assess ongoing training needs and take action to meet those needs.</p>	<p>In the final week of the pre-service, MAPP provides an opportunity for foster parents to assess their needs but not the actions to meet those needs [Rule 65C-13.009(7)(k)]. In-service training is required and provided by the department annually; however, this training may or may not meet the on-going training needs of individual foster parents [s. 409.175(13)(d), F.S.].</p>
<p>Assist in preventing placement disruptions and provide emotional support to the child and child’s family if placement disruption occurs.</p>	<p>MAPP covers the topic of prevention of placement disruptions [s. 409.175(13)(b), F.S., and Rule 65C-13.009(7)(h)].</p>
<p>Know the impact foster parenting has on the individual and family and minimize the stress to the extent possible.</p>	<p>MAPP covers the topic of the effects of foster parenting on the family [s. 409.175(3)(b)7, F.S., and Rule 65C 13.009(7)(i)].</p>
<p>Know the rewards of foster parenting and promote foster parenting.</p>	<p>No corresponding provisions found.</p>
<p>Know the roles, rights and responsibilities of foster parents, other participants, foster child and child’s family.</p>	<p>MAPP covers the topic of the role of the foster parent and his/her rights and obligations as a team member [s. 409.175(3)(b)2. F.S., and Rule 65C-13.009(1)(b)]. Note, this does not appear to be the full scope of rights and responsibilities as may be implied with the proposed responsibility.</p>

<p>Know and fulfill obligation as a mandated child abuse reporter and know the department’s policy regarding allegations of child abuse by a foster parent.</p>	<p>Foster parents are one of the professions specifically identified as a mandated reporter of child abuse [s. 39.201(1)(e), F.S.]. No other provision was found regarding the foster parent’s responsibility to fulfill the obligation as a reporter of child abuse.</p> <p>The department’s protective investigative staff and family care counselor must immediately investigate abuse or neglect complaints against a foster parent and will notify the state attorney’s office in accordance with child abuse statutes. This policy and procedure is to be discussed with the foster parent prior to licensing and with every relicensing. [Rule 65C-13.010(5)(j)].</p>
<p>Know and receive training on the court processes and actively participate in the foster parent’s designated role in these proceedings.</p>	<p>MAPP includes a brief discussion on the court process and on the foster parent’s responsibility to provide pertinent information for judicial and administrative reviews [Rule 65C-13.009(7)(c) and Rule 65C-13.010(1)(c)2.].</p>
<p>Know the department’s appeal procedure for the foster parent and rights of the foster parent.</p>	<p>No corresponding provision found.</p>
<p>Understand the importance of maintaining accurate records on the child’s history and progress. Follow the department’s rules and procedures.</p>	<p>The foster parent is responsible for maintaining records in accordance with department procedure, including progress notes [Rule 65C-13.010(1)(c)3.].</p>
<p>Share information with subsequent caregivers regarding the child’s adjustment in the foster home.</p>	<p>The foster parent is responsible for preparing the child to leave the foster home and supporting the placement process [Rule 65C 13.010(1)(c)7.].</p>
<p>Provide services that are respectful of and maintain the child’s cultural heritage and support the relationship between the child and the child’s family.</p>	<p>The foster parent is responsible for recognizing, encouraging and supporting religious beliefs, ethnic heritage and the language of the child and family. Cultural activities are required to be incorporated into the case plan. [Rule 65C-13.010(1)(b)4. and CFOP 175-34(8)(c)].</p> <p>The foster parent is responsible for maintaining a working relationship with the child’s family [Rule 65C-13.010(2)].</p>

The department and each agency providing foster care services under contract are required to prepare a plan for implementing this section in each service district. The plan must be prepared annually and foster parents must be provided an opportunity to comment.

Currently, s. 39.812, F.S., provides for the jurisdiction of the court for children whose parent's parental rights have been terminated to continue until the child is adopted. This bill amends s. 39.812, F.S. to prohibit the department from removing a foster child who has resided at the foster home for at least 6 months when the foster parent has applied for adoption and the application for adoption has been denied, unless under order by the court. Exceptions are provided for when the child is believed to be at imminent risk of abuse or neglect, 30 days have expired since the foster parent received written notice of the denial and no formal challenge has been filed or the foster parent agrees to the child's removal.

SB 1098 places in Florida Statutes a set of responsibilities for the foster parent and a set of responsibilities for the department as it relates to the foster parent, many of which are already enunciated in administrative rule, operating procedures and other statutes. Incorporating these responsibilities into statute provides greater protection and sets higher expectations for both the department and the foster parent. Continuation of and accountability for the practices, knowledge and skills learned in the MAPP training are imposed with the creation of these statutory responsibilities. Foster parents would need to be provided access to the child-placing agency's appeal process. The specific appeals process intended in the bill is not clear; is it the appeals process relative to placing and removing a child, or the child-placing agency's general appeals process for agency decisions, and does it include any of the department's appeals processes. While the elevation of these responsibilities and expectations would place more requirements on both the department and the foster parent, it also provides a stronger directive for the valuable role that foster parents should play in the child welfare system and places the expectations for foster parenting, which are scattered throughout many policy documents, into one site.

The prohibition against removing a foster child from a foster parent when the application for adoption has been denied restricts the department's ability to move a child to another prospective adoptive home when the current foster parent's application for adoption has been denied, and, in turn, potentially delays the department's actions for achieving permanency for the child. It also, however, prevents hasty removals when there has been a relationship developed that was based on an anticipated permanent arrangement.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

More stringent requirements on the foster parents may jeopardize the licensure of some foster homes. However, it is also important that the cadre of foster parents with whom foster children are placed are capable of meeting the standards and expectations set forth for the foster care system. Stronger and on-going emphasis on supporting and creating a true partnership with the foster parents may be instrumental in retaining good foster parents in the system.

**C. Government Sector Impact:**

The responsibilities delineated in the Foster Parent Act represent best practices which the Department of Children and Families supports. However, the department reports that placing these best practices in statute creates a new set of entitlements enforceable by due process provisions for the foster parents. The department is concerned that the responsibilities delineated for foster parents will require that they be highly skilled, well-trained and adequately supported by their agencies, and if they are not, their foster home license may be in jeopardy. The Department reports that additional training will be necessary to build a pool of foster parents who can perform at this high skill level. It is also projected that an increase in staff and 1550 additional foster families will be needed to meet the needs of the children. The department estimates that the costs of the additional training and recruitment and licensing staff is \$2,942,080 for FY 2002-2003. While the need for enhanced training is evident by the accountability required for the delineated responsibilities, some question exists as to how the bill requires expanding the number of foster parents in the system.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The state of Illinois enacted a Foster Parent Law in 1995 which sets forth the role of foster parents in the child welfare program. In particular, the legislation clearly articulates that foster parents are an integral part of the child welfare team and creates specific rights and responsibilities of the foster parents. Illinois is implementing these rights and responsibilities through annual plans which specify the strategies for implementation for each private agency with oversight responsibility for foster homes and regions. Rules have been developed that set forth minimum requirements for the implementation plans. A Foster Parent Advisory Council is charged with monitoring the implementation of the plans' strategies and, in turn, the implementation of the foster parents' rights and responsibilities. A representative of the Illinois

Department of Children and Family Services reported that the law has not resulted in any real cost increases because it reflected, to a large extent, functions either already being performed or generally expected to be performed. It was reported that the law has provided a frame work for what can be expected of foster parents and the state and private agencies. Operationalizing this frame work has resulted both in foster parents having more influence in the process and requiring more of the foster parents.

There have been reports indicating that the issues surrounding the removal of foster children from the homes of foster parents when their applications for adoption have been denied may be broader than the bill addresses. Concerns have been expressed as to the reasons for denial of some applications for adoptions by the department, lack of provisions of opportunities to remedy issues identified that resulted in denied applications, as well as the need to consider the attachment of the child to the foster parents or prospective adoptive parents when the adoption is being considered or is denied. All of these issues deal with the decision to remove children after long standing relationships have developed which is the focus of the amendment to s. 39.812, F.S., provided by this bill.

The responsibilities of the department to foster parents as set forth in the Foster Parent Act do not require the agencies under contract with the department that provide foster care services to assume any of the delineated responsibilities. The department has the sole authority for the licensing of foster homes and therefore, the responsibilities specified in the bill pertaining to licensure. However, the remaining responsibilities may be more appropriately placed with the agencies with direct oversight of the foster homes.

#### **VIII. Amendments:**

None.