

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1309 Adoption and Child Protection  
**SPONSOR(S):** Galvano  
**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 1388

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Healthy Families</u>	<u>9 Y, 0 N</u>	<u>Preston</u>	<u>Mitchell</u>
2) <u>Healthcare Council</u>	<u></u>	<u></u>	<u></u>
3) <u>Policy &amp; Budget Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
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### SUMMARY ANALYSIS

The bill renames the Office of Child Abuse and Prevention created in 2006 as the Office of Adoption and Child Protection (Office); and

- Revises the purpose of the Office to include the promotion of adoption and the support of adoptive families.
- Renames the director of the Office as the Chief Child Advocate;
- Renames the Child Abuse Prevention Advisory Council as the Child Abuse Prevention and Permanency Advisory Council.
- Requires the Office, in conjunction with the Department of Children & Families (DCF) and the Department of Education (DOE), to develop a certification program for professionals who provide services related to adoption.
- Authorizes the Office to establish a direct support organization and specifies the purposes, requirements, and objectives of the organization.
- Establishes an adoption promotion subsidy program, and requires that all funding appropriated for this program be paid as subsidies to adoptive families.

The bill is estimated to have a fiscal impact on state government to be \$22,573,916 for FY 2007-2008 and \$34,529,181 for FY 2008-2009.

The bill provides an effective date of July 1, 2007.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Provide limited government** – The bill creates the Office of Adoption and Child Protection which will have to be staffed. The bill gives DCF rulemaking authority to implement the provisions of the adoption subsidy program and the bill creates a direct support organization and specifies duties.

**Promote personal responsibility** – The bill creates an adoption subsidy program to promote adoption.

**Empower families** – Increasing the number of adoptions in Florida may provide children with permanent homes and foster family stability.

#### B. EFFECT OF PROPOSED CHANGES:

##### CURRENT SITUATION

##### Child Protection

In 1982, the Legislature required the Department of Health and Rehabilitative Services (HRS), along with other state and local agencies to develop a state plan on the prevention of child abuse and neglect.<sup>1</sup> The act required the plan to be submitted to the Legislature and Governor by January 1, 1983 and to be updated periodically. The impact that abuse and neglect has on the victimized child, siblings, family structure, and inevitably on all citizens of the state caused the Legislature to determine that the prevention of child abuse and neglect should be a priority of this state.

In 2004, Florida's rate of child maltreatment was the highest in the nation, with 32.5 victims per 1000 children.<sup>2</sup> Child deaths are the most tragic consequences of abuse and neglect. During 2005, according to the Florida Child Abuse Death Review Team, at least 94 Florida children died from abuse or neglect at the hands of their parents or caretakers.<sup>3</sup> Mirroring the national trend, 56 percent of the deaths were caused by neglect. A Florida child is abused or neglected every 4 minutes. Ten thousand Florida children are abused or neglected per month.<sup>4</sup>

The cost of child maltreatment to society is tremendous. National estimates of direct and indirect impacts range from \$24 to \$94 billion each year and many argue that these estimates are likely to understate the true costs due to the difficulty in capturing the full range of indirect costs such as cash and food assistance.<sup>5</sup> Despite the potential long-term benefit of preventing child abuse and neglect, only a small percentage of all resources specifically earmarked for child maltreatment in the State of Florida are actually devoted to prevention.

In 2006, the Legislature established a centralized office to examine, oversee, and implement abuse prevention services by creating the Office of Child Abuse Prevention within the Executive Office of the Governor. Pursuant to s. 39.001 F.S., the office is directed to develop a state plan for the prevention of child abuse, abandonment, and neglect of children. Appropriate state and local agencies—including

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<sup>1</sup> See Chapter 82-62, Laws of Florida.

<sup>2</sup> U.S. Department of Health and Human Services, Administration on Children, Youth and Families. Child Maltreatment 2004: (Washington, DC: U.S. Government Printing Office, 2006).

<sup>3</sup> See <http://www.doh.state.fl.us/cms/FLCADR/attach/2006CADRrpt.pdf>

<sup>4</sup> "Child Welfare Annual Statistics Data Tables Fiscal Year 2004-2005." [http://www.fiu.edu/~cat/fl\\_victims.htm](http://www.fiu.edu/~cat/fl_victims.htm).

<sup>5</sup> See Fromm, S. (2001). Total estimated cost of child abuse and neglect in the United States. Chicago, IL: Prevent Child Abuse America.

DCF, DOE, Department of Juvenile Justice (DJJ), the Department of Corrections (DOC), Department of Law Enforcement (FDLE), Agency for Persons with Disabilities (APD), and Agency for Workforce Innovation (AWI) — and organizations must be provided an opportunity to participate in development of the state plan.

## Adoption

Although prevention of child abuse was the focus of the 2006 legislation, increasing the adoption rate for children who have been abused or neglected and cannot safely return to their families has long been a goal of the state's child welfare system. Although the number of adoptions of foster children in FY 2004-2005 was more than double the number in FY 1998-1999,<sup>6</sup> there are still many children waiting to be adopted.

As of July 1, 2005, 3,212 foster children were available for adoption. The Department of Children and Families and community-based care lead agencies finalized 3,011 foster child adoptions in FY 2005-06. Forty-one percent of children wait more than two years from the time they become available for adoption to be adopted and thirty-seven percent wait more than three years.<sup>7</sup>

## Special Needs Children

Florida law currently provides for a subsidized adoption program for special needs children.<sup>8</sup> In creating the program it is the intent of the Legislature:

- To protect and promote every child's right to the security and stability of a permanent family home;
- To make available to prospective adoptive parents financial aid which will enable them to adopt a child in foster care who, because of his or her special needs, has proven difficult to place in an adoptive home;
- To reduce state expenditures for long-term foster care; and
- That placement without subsidy be the placement of choice unless it can be shown that such placement is not in the best interest of the child.

The law provides that authorization for an adoption subsidy is to be granted only when all other resources available to place the child have been thoroughly explored and it can be clearly established that this is the most acceptable plan for providing permanent placement for the child. However, the statute also gives the department a legislative directive that its policies should not result in denying any child an adoption when a subsidy would make an adoption possible.

The department attempts to clarify adoption subsidy requirements in its policies and procedures. These state that the best interest of the child should be the overriding placement factor, even if the family identified as most suitable can only adopt the child with a subsidy. To be consistent with statute, department policies and procedures require that staff make reasonable efforts to place a child for adoption without adoption assistance, and document that these efforts have been made. The majority of children available for adoption from the state meet the definition of special needs and the majority of families who adopt children from the state of Florida receive an adoption subsidy.<sup>9</sup>

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<sup>6</sup> Child Welfare System Performance Mixed in First Year of Statewide Community-Based Care, OPPAGA Report No. 06-50 (June 2006).

<sup>7</sup> See <http://www.dcf.state.fl.us/adoption/faq.shtml>

<sup>8</sup> See s. 409.166, Florida Statutes. "Special needs child" is defined as a child whose permanent custody has been awarded to the department or to a licensed child-placing agency and who has established significant emotional ties with his or her foster parents or is not likely to be adopted because he or she is eight years of age or older; mentally retarded; physically or emotionally handicapped; of black or racially mixed parentage; or a member of a sibling group of any age, provided two or more members of a sibling group remain together for purposes of adoption.

<sup>9</sup> B. Vickers, OPPAGA Memorandum RE: Florida's Adoption Process and Financial Assistance for Families (March 9, 2007).

## Financial Assistance

There are many types of financial assistance available to families who adopt children with special needs. The different types of financial assistance available to adoptive families provide for both recurring and non-recurring expenses, and are predominately administered by the community-based care lead agencies. Some types of financial assistance are not available to families who adopt children without special needs unless the child placing agency can document that it was not able to find a family willing to adopt the child without a subsidy. The following chart describes the types of financial assistance available to adoptive families:<sup>10</sup>

### AVAILABLE TO FAMILIES WHO ADOPT CHILDREN WITH SPECIAL NEEDS

Type of Assistance	Funding Source	Assistance Description
Maintenance Subsidy	Federal Title IV-E, Federal Temporary Assistance for Needy Families, and State General Revenue	This is a monthly payment made to the adoptive family to assist in the support of the special needs child. The amount of the subsidy is 80% of the current standard foster care board rate and ranges from \$296.80 to \$365.60 per child per month, depending on the child's age and needs. The funding source used for the subsidy depends on which eligibility criteria the child meets. Children eligible for federal Title IV-E assistance are automatically qualified to continue Medicaid coverage after the adoption. Payments are made by the lead agency to the adoptive parent(s). The majority of families who adopt special needs children receive a maintenance subsidy.
Medical Subsidy	State General Revenue	Designed to help cover the costs of treating physical, mental, or emotional conditions that existed prior to the adoption. However, payment for services must first be refused by Medicaid, Children's Medical Services, and Children's Mental Health before this subsidy is available. The Department of Children and Families makes payments directly to the provider.
Non-Recurring Expenses	Federal Title IV-E	Reimburses adoptive parents up to \$1,000 per child for some of the costs incurred in connection with a special needs adoption. Such costs include attorney fees, acquiring a new birth certificate, travel expenses, and physical and psychological exams of the adoptive parents. The lead agency makes payments directly to the adoptive parent(s).

### AVAILABLE TO FAMILIES FOR ANY FOSTER CHILD ADOPTION

Type of Assistance	Funding Source	Assistance Description
College Tuition Exemption	NA	Children who are adopted through the Department of Children and Families and lead agencies after May 5, 1997, are eligible to receive up to four years of college tuition exemptions at Florida universities, colleges, and vocational training schools. Because this is a waiver, no funds are exchanged.
State Employee Benefit	State General Revenue	Any full time or part time Florida state employee who adopts a special needs child is eligible to receive a monetary benefit in the amount of \$10,000 per child. Any full-time or part-time Florida state employee who adopts a nonspecial needs child is eligible to receive a monetary benefit of \$5,000 per child.
Federal Income Tax	NA	Adoptive families can receive a tax credit of up to \$10,960 per child. The tax credit applies to domestic and international adoptions, but the procedures are not the same for the two types of adoptions. Adoptive parents pursuing international adoptions can claim adoption expenses for the credit only after finalization; adoptive parents pursuing domestic adoptions can claim expenses for the credit even if the adoption does not go through.

<sup>10</sup> B. Vickers, OPPAGA Memorandum RE: Florida's Adoption Process and Financial Assistance for Families (March 9, 2007).

## The Bill

The bill changes all references to the Office of Child Abuse Prevention to the Office of Adoption and Child Protection and adds the promotion of adoption and the support of adoptive families to all references made to the purposes and goals of the Office. It also renames the director of the Office as the Chief Child Advocate.

The bill directs the Chief Child Advocate to:

- Formulate and recommend rules pertaining to the promotion of adoption, support of adoptive families and the implementation of child abuse prevention efforts;
- Act as the Governor's liaison with state agencies, other state governments, and the public and private sectors on matters that relate to the promotion of adoption, support of adoptive families and child abuse prevention;
- Work to secure funding for the promotion of adoption, support of adoptive families and the implementation of child abuse prevention efforts;
- Develop a strategic program and funding initiative for the promotion of adoption, support of adoptive families and the implementation of child abuse prevention efforts;
- Advise the Governor on statistics related to adoption and child abuse trends in the state; and
- Develop adoption and child abuse prevention public awareness campaigns.

The bill authorizes and directs the Office to:

- Oversee the preparation and the implementation of a state plan and revise and update the plan as necessary;
- Conduct or provide for continuing professional education and training in the prevention of child abuse and neglect;
- Work to secure funding;
- Make recommendations pertaining to agreements or contracts for the establishment and development of programs and services, training programs, and multidisciplinary and discipline-specific training programs for professionals; and
- Monitor, evaluate, and review the development and quality of local and statewide services and programs and distribute and publish an annual report of its findings before January 1 of each year. The report is to include a summary of the activities of the Office, a summary of adoption data and child abuse prevention data and recommendations for improvement.

The bill renames the Child Abuse Prevention Advisory Council as the Child Abuse Prevention and Permanency Council, and specifies that an adoptive parent who has adopted a child from within the child welfare system shall also serve as a member of the Council. The promotion of adoption and support of adoptive families is made part of the Council's mission.

The bill directs the Office, DCF and the DOE to work together to develop a postgraduate certification program for mental health and education professionals who provide services to adoptive children and families.

The bill authorizes the Office of Adoption and Child Protection to establish a direct-support organization to support the state in carrying out its purposes and responsibilities regarding the promotion of adoption and the support of adoptive families and the prevention of child abuse, by raising money, receiving grants and making expenditures on behalf of the Office.

The bill establishes an Adoption Promotion Subsidy. The bill requires DCF to make adoption subsidies available to prospective adoptive parents as follows:

- For the support and maintenance of special needs children, DCF may provide an adoption subsidy, in addition to the adoption assistance available under s. 409.166, F.S., up to \$5000

annually (unless a higher rate is approved by the DCF secretary), until the child's 18th birthday;

- For the support and maintenance of other children within the child welfare system, DCF may provide an adoption subsidy up to \$5000 annually (unless a higher rate is approved by the DCF secretary), until the child's 18th birthday;
- For the support and maintenance of children who are not in the child welfare system, DCF may provide an adoption subsidy up to \$3000 annually for three years following the finalization of the adoption, as long as the adopting parent is a resident of Florida.

In all situations, the adoption promotion subsidy must be an amount agreed to between the adopting parents and the department and must be memorialized in writing. The bill further provides adoption fees shall be waived in all cases where a child in the custody of the department is adopted, and that the fees may be waived in other cases.

C. SECTION DIRECTORY:

**Section 1.** Amends s. 39.001, Florida Statutes, relating to purposes and intent and personnel standards and screening.

**Section 2.** Creates s. 39.0011, Florida Statutes, relating to direct-support organization.

**Section 3.** Amends s. 39.0014, Florida Statutes, relating to responsibilities of public agencies.

**Section 4.** Amends s. 39.01, Florida Statutes, relating to definitions.

**Section 5.** Creates s. 409.1661, Florida Statutes, relating to subsidized adoption program.

**Section 6.** Provides for an effective date of July 1, 2007.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The department has provided the following fiscal estimates relating to implementing the provisions of the bill:

- Maintenance adoption subsidies for children adopted within the child welfare system are increased from an average of \$3,788 annually to a standard payment of \$5,000 annually or up to \$5,000 as determined by the adoptive parents. This bill also establishes that children adopted privately, not within the child welfare system and excluding international adoptions, are eligible for maintenance adoption subsidies of \$3,000 annually for the first three years after finalization of the adoption. The projected number of new adoptions for FY 07-08 is 2,750. Using a phasing-in assumption that 25% of the adoptions will occur each quarter; the total cost for new subsidies in FY 07-08 is **\$8,600,000**.

- In consideration of 6,067 children adopted privately per year and using a phasing-in assumption of 25% of the adoptions occurring per quarter, the total cost for these new subsidies would be **\$11,377,500**. The children adopted privately are not eligible for federal reimbursement and these subsidies would have to be funded with all general revenue. In addition to the children adopted

privately there will be a need for additional staff within the Department of Children and Families to implement the policy and process to administer and evaluate the program.

- For Fiscal Year 2008-09 there will be an annualization budget needed to cover the adoptees that were phased in during Fiscal Year 2007-08. The number of adopted children who turn 18 each year will be minimal so there will be an increase in budget needed to cover all of the projected 2,750 children plus the projected private adoptions of 6,067 in Fiscal Year 2008-09. The budget needed to cover the annualization will be **\$11,973,500**.

- In addition to the funding needed to cover the subsidy increase for new adoptees from the Foster Care System in Fiscal Year 2007-08, plus the funding needed to cover the private adoptions, there will be a change in the current office structure that will create the Office of Adoption and Child Protection. This new office will need additional staff and related budget to cover expenses and other office funding needs for the adoption related activities. The staffing needs are 3 full time positions (Chief Child Advocate, Senior Management Analyst II, Executive Assistant) and 1 OPS at a recurring cost of \$440,482 for salaries, benefits and related expense's and a non recurring cost of \$18,235 for operating capital outlay and related expenses. Other funding needs related to items such as media campaigns, data processing, publications, consulting and Advisory Council needs would be a recurring need of **\$2,137,699**.

**Cost Calculation - Summary: FY 2007-08 and FY 2008-09**

Staffing Need – Recurring (12 month need)	\$440,482
Staffing Need – Non Recurring (12 month need)	\$18,235
Office of Adoption and Child Protection (Other) Need – Recurring	\$2,137,699
Adoption Subsidy Need – 25% Phase-in (New Adoptions) – Recurring	\$8,600,000
Adoption Subsidy Need – 25% Phase-in (Private adoptions) – Recurring	\$11,377,500
Annualization for FY 2008-09 - To cover phase-in approach	\$11,973,500
<b>Total</b>	<b>\$34,529,181</b>

**NOTE:** The postgraduate certification program for professionals who provide services to adoptive children and families may have fiscal impact on DOE and/or DCF. According to DCF, Rutgers University has developed a postgraduate program to certify mental health professionals in adoption issues. Because the program was developed with a federal grant, is available at no charge. DCF expects that the costs of implementing this program in Florida would include “train the trainer” fees (travel expenses for Rutgers’s professors to come to Florida and teach the course initially) and incentives for mental health professionals to encourage pursuit of the certification. The department estimates that these costs will be at least \$50,000.

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

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Adopting families will receive additional financial assistance through the adoption promotion subsidy program. Assistance will be available to families who adopt children in the custody of DCF, as well as to those who adopt children privately.

**D. FISCAL COMMENTS:**

None.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

The bill provides DCF with the authority to promulgate rules for implementing the provisions of the adoption subsidy program.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

There would appear to be inconsistencies between provisions in the newly created s. 409.1661, F.S., relating to a subsidized adoption program and current provisions in s. 409.166, F.S., relating to special needs children and subsidized adoption.

#### D. STATEMENT OF THE SPONSOR

The inclusion of adoption services in the new office of Adoption and Child Protection will give those children waiting to be adopted the focus they need to find adoptive families.

### IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 20, 2007, the Healthy Families Committee adopted two amendments to the bill by the bill sponsor that do the following:

**Amendment 1** – removes the requirement for demographics related to children within the child welfare system who are available for adoption.

**Amendment 2** – provides that the adoptive parents the department will determine the amount of the adoption subsidy payment, rather than just the adoptive parents.

HB 1309 was reported favorable with 2 amendments.