

CHAPTER 2017-8

Committee Substitute for Senate Bill No. 60

An act relating to children obtaining driver licenses; amending s. 409.1454, F.S.; revising legislative findings; revising a pilot program to make it permanent; revising the applicability of the program to include children in out-of-home care; authorizing the program to pay for a child to complete a driver education program and obtain a driver license or the related costs of licensure under certain circumstances; revising the duties of the Department of Children and Families under the program; deleting the requirement for an annual report by the department to the Governor and the Legislature; amending s. 39.6035, F.S.; revising a child's transition plan to include options to use in obtaining a driver license under certain circumstances; amending s. 39.701, F.S.; revising a required determination made by the court and a citizen review panel; requiring the department to include specified information in the social study report for judicial review under certain circumstances; amending s. 322.09, F.S.; providing that a guardian ad litem authorized by a minor's caregiver to sign for the minor's learner's driver license does not assume any obligation or liability for damages; making technical changes; reenacting s. 409.1451(5)(a), F.S., to incorporate the amendment made to s. 39.6035, F.S., in a reference thereto; reenacting ss. 322.05(3) and 322.56(8)(a), F.S., to incorporate the amendment made to s. 322.09, F.S., in references thereto; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 409.1454, Florida Statutes, is amended, to read:

409.1454 MOTOR VEHICLE INSURANCE AND DRIVER LICENSES FOR CHILDREN IN CARE.—

(1) The Legislature finds that the costs of driver education, licensure and costs incidental to licensure, and motor vehicle insurance for a child in licensed out-of-home care after such child obtains a driver license create creates an additional barrier to engaging in normal age-appropriate activities and gaining independence and may limit opportunities for obtaining employment and completing educational goals. The Legislature also finds that the completion of an approved driver education course is necessary to develop safe driving skills.

(2) To the extent that funding is available, the department shall establish a ~~3-year pilot~~ program to pay the cost of driver education, licensure and other costs incidental to licensure, and motor vehicle insurance for children in licensed out-of-home care who have successfully completed a driver education program.

(3) If a caregiver, or an individual or not-for-profit entity approved by the caregiver, adds a child to his or her existing insurance policy, the amount paid to the caregiver or approved purchaser may not exceed the increase in cost attributable to the addition of the child to the policy.

(4) Payment shall be made to eligible recipients in the order of eligibility until available funds are exhausted. If a child determined to be eligible reaches permanency status or turns 18 years of age, the program may pay for that child to complete a driver education program and obtain a driver license for up to 6 months after the date the child reaches permanency status or 6 months after the date the child turns 18 years of age. A child continuing in care under s. 39.6251 may be eligible to have the costs of licensure and costs incidental to licensure paid if the child demonstrates that such costs are creating barriers for obtaining employment or completing educational goals.

(5) The department shall contract with a not-for-profit entity whose mission is to support youth aging out of foster care to develop procedures for operating and administering the pilot program, including, but not limited to:

(a) Determining eligibility, including responsibilities for the child and caregivers.

(b) Developing application and payment forms.

(c) Notifying eligible children, caregivers, group homes, and residential programs of the pilot program.

(d) Providing technical assistance to lead agencies, providers, group homes, and residential programs to support removing obstacles that prevent children in foster care from driving.

(e) Publicizing the program, engaging in outreach, and providing incentives to youth participating in the program to encourage the greatest number of eligible children to obtain driver licenses.

~~(6) By July 1, 2015, and annually thereafter for the duration of the pilot program, the department shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives evaluating the success of and outcomes achieved by the pilot program. The report shall include a recommendation as to whether the pilot program should be continued, terminated, or expanded.~~

Section 2. Subsection (1) of section 39.6035, Florida Statutes, is amended to read:

39.6035 Transition plan.—

(1) During the 180-day period after a child reaches 17 years of age, the department and the community-based care provider, in collaboration with the caregiver and any other individual whom the child would like to include,

shall assist the child in developing a transition plan. The required transition plan is in addition to standard case management requirements. The transition plan must address specific options for the child to use in obtaining services, including housing, health insurance, education, a driver license, and workforce support and employment services. The plan must also consider establishing and maintaining naturally occurring mentoring relationships and other personal support services. The transition plan may be as detailed as the child chooses. In developing the transition plan, the department and the community-based provider shall:

(a) Provide the child with the documentation required pursuant to s. 39.701(3); and

(b) Coordinate the transition plan with the independent living provisions in the case plan and, for a child with disabilities, the Individuals with Disabilities Education Act transition plan.

Section 3. Paragraph (c) of subsection (2) and paragraph (a) of subsection (3) of section 39.701, Florida Statutes, are amended to read:

39.701 Judicial review.—

(2) REVIEW HEARINGS FOR CHILDREN YOUNGER THAN 18 YEARS OF AGE.—

(c) *Review determinations.*—The court and any citizen review panel shall take into consideration the information contained in the social services study and investigation and all medical, psychological, and educational records that support the terms of the case plan; testimony by the social services agency, the parent, the foster parent or legal custodian, the guardian ad litem or surrogate parent for educational decisionmaking if one has been appointed for the child, and any other person deemed appropriate; and any relevant and material evidence submitted to the court, including written and oral reports to the extent of their probative value. These reports and evidence may be received by the court in its effort to determine the action to be taken with regard to the child and may be relied upon to the extent of their probative value, even though not competent in an adjudicatory hearing. In its deliberations, the court and any citizen review panel shall seek to determine:

1. If the parent was advised of the right to receive assistance from any person or social service agency in the preparation of the case plan.

2. If the parent has been advised of the right to have counsel present at the judicial review or citizen review hearings. If not so advised, the court or citizen review panel shall advise the parent of such right.

3. If a guardian ad litem needs to be appointed for the child in a case in which a guardian ad litem has not previously been appointed or if there is a need to continue a guardian ad litem in a case in which a guardian ad litem has been appointed.

4. Who holds the rights to make educational decisions for the child. If appropriate, the court may refer the child to the district school superintendent for appointment of a surrogate parent or may itself appoint a surrogate parent under the Individuals with Disabilities Education Act and s. 39.0016.

5. The compliance or lack of compliance of all parties with applicable items of the case plan, including the parents' compliance with child support orders.

6. The compliance or lack of compliance with a visitation contract between the parent and the social service agency for contact with the child, including the frequency, duration, and results of the parent-child visitation and the reason for any noncompliance.

7. The frequency, kind, and duration of contacts among siblings who have been separated during placement, as well as any efforts undertaken to reunite separated siblings if doing so is in the best interest of the child.

8. The compliance or lack of compliance of the parent in meeting specified financial obligations pertaining to the care of the child, including the reason for failure to comply, if applicable.

9. Whether the child is receiving safe and proper care according to s. 39.6012, including, but not limited to, the appropriateness of the child's current placement, including whether the child is in a setting that is as family-like and as close to the parent's home as possible, consistent with the child's best interests and special needs, and including maintaining stability in the child's educational placement, as documented by assurances from the community-based care provider that:

a. The placement of the child takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement.

b. The community-based care agency has coordinated with appropriate local educational agencies to ensure that the child remains in the school in which the child is enrolled at the time of placement.

10. A projected date likely for the child's return home or other permanent placement.

11. When appropriate, the basis for the unwillingness or inability of the parent to become a party to a case plan. The court and the citizen review panel shall determine if the efforts of the social service agency to secure party participation in a case plan were sufficient.

12. For a child who has reached 13 years of age but is not yet 18 years of age, the adequacy of the child's preparation for adulthood and independent living. For a child who is 15 years of age or older, the court shall determine if

appropriate steps are being taken for the child to obtain a driver license or learner's driver license.

13. If amendments to the case plan are required. Amendments to the case plan must be made under s. 39.6013.

(3) REVIEW HEARINGS FOR CHILDREN 17 YEARS OF AGE.—

(a) In addition to the review and report required under paragraphs (1)(a) and (2)(a), respectively, the court shall hold a judicial review hearing within 90 days after a child's 17th birthday. The court shall also issue an order, separate from the order on judicial review, that the disability of nonage of the child has been removed pursuant to ss. 743.044, 743.045, 743.046, and 743.047, and for any of these disabilities that the court finds is in the child's best interest to remove. The court shall continue to hold timely judicial review hearings. If necessary, the court may review the status of the child more frequently during the year before the child's 18th birthday. At each review hearing held under this subsection, in addition to any information or report provided to the court by the foster parent, legal custodian, or guardian ad litem, the child shall be given the opportunity to address the court with any information relevant to the child's best interest, particularly in relation to independent living transition services. The department shall include in the social study report for judicial review written verification that the child has:

1. A current Medicaid card and all necessary information concerning the Medicaid program sufficient to prepare the child to apply for coverage upon reaching the age of 18, if such application is appropriate.

2. A certified copy of the child's birth certificate and, if the child does not have a valid driver license, a Florida identification card issued under s. 322.051.

3. A social security card and information relating to social security insurance benefits if the child is eligible for those benefits. If the child has received such benefits and they are being held in trust for the child, a full accounting of these funds must be provided and the child must be informed as to how to access those funds.

4. All relevant information related to the Road-to-Independence Program, including, but not limited to, eligibility requirements, information on participation, and assistance in gaining admission to the program. If the child is eligible for the Road-to-Independence Program, he or she must be advised that he or she may continue to reside with the licensed family home or group care provider with whom the child was residing at the time the child attained his or her 18th birthday, in another licensed family home, or with a group care provider arranged by the department.

5. An open bank account or the identification necessary to open a bank account and to acquire essential banking and budgeting skills.

6. Information on public assistance and how to apply for public assistance.

7. A clear understanding of where he or she will be living on his or her 18th birthday, how living expenses will be paid, and the educational program or school in which he or she will be enrolled.

8. Information related to the ability of the child to remain in care until he or she reaches 21 years of age under s. 39.013.

9. A letter providing the dates that the child is under the jurisdiction of the court.

10. A letter stating that the child is in compliance with financial aid documentation requirements.

11. The child's educational records.

12. The child's entire health and mental health records.

13. The process for accessing his or her case file.

14. A statement encouraging the child to attend all judicial review hearings occurring after the child's 17th birthday.

15. Information on how to obtain a driver license or learner's driver license.

Section 4. Subsection (4) of section 322.09, Florida Statutes, is amended to read:

322.09 Application of minors; responsibility for negligence or misconduct of minor.—

(4) Notwithstanding ~~the provisions of~~ subsections (1) and (2), if a foster parent of a minor who is under the age of 18 years and is in foster care as defined in s. 39.01, an authorized representative of a residential group home at which such a minor resides, ~~or the caseworker at the agency at which the state has placed the minor, or a guardian ad litem specifically authorized by the minor's caregiver to sign for a learner's driver license~~ signs the minor's application for a learner's driver license, that foster parent, group home representative, ~~or caseworker, or guardian ad litem~~ does not assume any obligation or become liable for any damages caused by the negligence or willful misconduct of the minor by reason of having signed the application. ~~Before~~ Prior to signing the application, the caseworker shall notify the foster parent or other responsible party of his or her intent to sign and verify the application.

Section 5. For the purpose of incorporating the amendment made by this act to section 39.6035, Florida Statutes, in a reference thereto, paragraph (a) of subsection (5) of section 409.1451, Florida Statutes, is reenacted to read:

409.1451 The Road-to-Independence Program.—

(5) PORTABILITY.—The services provided under this section are portable across county lines and between lead agencies.

(a) The service needs that are identified in the original or updated transition plan, pursuant to s. 39.6035, shall be provided by the lead agency where the young adult is currently residing but shall be funded by the lead agency who initiated the transition plan.

Section 6. For the purpose of incorporating the amendment made by this act to section 322.09, Florida Statutes, in a reference thereto, subsection (3) of section 322.05, Florida Statutes, is reenacted to read:

322.05 Persons not to be licensed.—The department may not issue a license:

(3) To a person who is at least 16 years of age but who is under 18 years of age, unless the parent, guardian, or other responsible adult meeting the requirements of s. 322.09 certifies that he or she, or another licensed driver 21 years of age or older, has accompanied the applicant for a total of not less than 50 hours' behind-the-wheel experience, of which not less than 10 hours must be at night. This subsection is not intended to create a private cause of action as a result of the certification. The certification is inadmissible for any purpose in any civil proceeding.

Section 7. For the purpose of incorporating the amendment made by this act to section 322.09, Florida Statutes, in a reference thereto, paragraph (a) of subsection (8) of section 322.56, Florida Statutes, is reenacted to read:

322.56 Contracts for administration of driver license examination.—

(8) The department shall contract with providers of approved online traffic law and substance abuse education courses to serve as third-party providers to conduct online, on behalf of the department, examinations required pursuant to ss. 322.12 and 322.1615 to applicants for Class E learner's driver licenses.

(a) The online testing program shall:

1. Use personal questions before the examination, which the applicant is required to answer during the examination, to strengthen test security to deter fraud;

2. Require, before the start of the examination, the applicant's parent, guardian, or other responsible adult who meets the requirements of s. 322.09 to provide the third-party administrator with his or her driver license number and to certify that the parent, guardian, or responsible adult will monitor the applicant during the examination; and

3. Require, before issuance by the department of a learner’s driver license to an applicant who has passed an online examination, the applicant’s parent, guardian, or other responsible adult who meets the requirements of s. 322.09 to certify to the department that he or she monitored the applicant during the online examination. This certification shall be similar to the certification required by s. 322.05(3). This subsection does not preclude the department from continuing to provide written examinations at driver license facilities.

Section 8. This act shall take effect upon becoming a law.

Approved by the Governor May 1, 2017.

Filed in Office Secretary of State May 1, 2017.