

CHAPTER 2018-108

Committee Substitute for Committee Substitute for House Bill No. 1435

An act relating to child welfare; creating s. 39.4015, F.S.; providing legislative findings and intent; providing definitions; requiring the Department of Children and Families, in collaboration with sheriffs' offices that conduct child protective investigations and community-based care lead agencies, to develop a statewide family-finding program; providing strategies to engage relatives and fictive kin; providing for the department and community-based care lead agencies to use diligent efforts in family finding; providing that certain actions do not constitute family finding; authorizing the department to adopt rules; amending s. 39.402, F.S.; requiring the court to request that parents consent to providing access to additional records; creating s. 39.5086, F.S.; providing the purpose and service components of a kinship navigator program; providing definitions; authorizing each community-based care lead agency to establish a kinship navigator program, subject to available resources; authorizing the department to adopt rules; amending s. 39.521, F.S.; conforming provisions to changes made by the act; amending s. 39.6012, F.S.; revising the types of records that must be attached to a case plan and updated throughout the judicial review process; amending s. 39.604, F.S.; revising enrollment and attendance requirements for children under protective supervision or out-of-home care enrolled in an early education or child care program; providing requirements and procedures for maintaining the educational stability of a child during the child's placement in out-of-home care or subsequent changes in out-of-home placement; requiring that a child's transition from an early education or child care program be pursuant to a plan that meets certain requirements; providing an effective date.

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

Section 1. Section 39.4015, Florida Statutes, is created to read:

39.4015 Family finding.—

(1) LEGISLATIVE FINDINGS AND INTENT.—

(a) The Legislature finds that every child who is in out-of-home care has the goal of finding a permanent home, whether achieved by reunifying the child with his or her parents or finding another permanent connection, such as adoption or legal guardianship with a relative or nonrelative who has a significant relationship with the child.

(b) The Legislature finds that while legal permanency is important to a child in out-of-home care, emotional permanency helps increase the

likelihood that children will achieve stability and well-being and successful transition to independent adulthood.

(c) The Legislature also finds that research has consistently shown that placing a child within his or her own family reduces the trauma of being removed from his or her home, is less likely to result in placement disruptions, and enhances prospects for finding a permanent family if the child cannot return home.

(d) The Legislature further finds that the primary purpose of family finding is to facilitate legal and emotional permanency for children who are in out-of-home care by finding and engaging their relatives.

(e) It is the intent of the Legislature that every child in out-of-home care be afforded the advantages that can be gained from the use of family finding to establish caring and long-term or permanent connections and relationships for children and youth in out-of-home care, as well as to establish a long-term emotional support network with family members and other adults who may not be able to take the child into their home but who want to stay connected with the child.

(2) DEFINITIONS.—As used in this section, the term:

(a) “Diligent efforts” means the use of methods and techniques, including, but not limited to, interviews with immediate and extended family and fictive kin, genograms, eco-mapping, case mining, cold calls, and specialized computer searches.

(b) “Family finding” means an intensive relative search and engagement technique used in identifying family and other close adults for children in out-of-home care and involving them in developing and carrying out a plan for the emotional and legal permanency of a child.

(c) “Family group decisionmaking” is a generic term that includes a number of approaches in which family members and fictive kin are brought together to make decisions about how to care for their children and develop a plan for services. The term includes family team conferencing, family team meetings, family group conferencing, family team decisionmaking, family unity meetings, and team decisionmaking, which may consist of several phases and employ a trained facilitator or coordinator.

(d) “Fictive kin” means an individual who is unrelated to the child by either birth or marriage, but has such a close emotional relationship with the child that he or she may be considered part of the family.

(3) FAMILY-FINDING PROGRAM.—Subject to available resources, the department, in collaboration with sheriffs’ offices that conduct child protective investigations and community-based care lead agencies, may develop a formal family-finding program to be implemented by child protective investigators and community-based care lead agencies as resources permit.

(a) Family finding may begin as soon as a child is taken into custody of the department, pursuant to s. 39.401, and throughout the duration of the case as necessary, finding and engaging with as many family members and fictive kin as possible for each child who may help with care or support for the child. The department or community-based care lead agency must specifically document strategies taken to locate and engage relatives and fictive kin. Strategies of engagement may include, but are not limited to, asking the relatives and fictive kin to:

1. Participate in a family group decisionmaking conference, family team conferencing, or other family meetings aimed at developing or supporting the family service plan;
2. Attend visitations with the child;
3. Assist in transportation of the child;
4. Provide respite or child care services; or
5. Provide actual kinship care.

(b) The family finding program shall provide the department and the community-based care lead agencies with best practices for identifying family and fictive kin. The family finding program must use diligent efforts in family finding, must continue those efforts until multiple relatives and fictive kin are identified, and must go beyond basic searching tools by exploring alternative tools and methodologies. Family finding efforts by the department and the community-based care lead agency may include, but are not limited to:

1. Searching for and locating adult relatives and fictive kin.
2. Identifying and building positive connections between the child and the child’s relatives and fictive kin.
3. Supporting the engagement of relatives and fictive kin in social service planning and delivery of services and creating a network of extended family support to assist in remedying the concerns that led to the child becoming involved with the child welfare system, when appropriate.
4. Maintaining family connections, when possible.
5. Keeping siblings together in care, when in the best interest of each child and when possible.

(c) A basic computer search using the Internet or attempts to contact known relatives at a last known address or telephone number do not constitute effective family finding.

(4) RULEMAKING.—The department may adopt rules to implement this section.

Section 2. Paragraph (c) of subsection (11) of section 39.402, Florida Statutes, is amended to read:

39.402 Placement in a shelter.—

(11)

(c) The court shall request that the parents consent to provide access to the child's child care records, early education program records, or other educational records and provide information to the court, the department or its contract agencies, and any guardian ad litem or attorney for the child. If a parent is unavailable or unable to consent or withholds consent and the court determines access to the records and information is necessary to provide services to the child, the court shall issue an order granting access.

Section 3. Section 39.5086, Florida Statutes, is created to read:

39.5086 Kinship navigator programs.—

(1) DEFINITIONS.—As used this section, the term:

(a) “Fictive kin” has the same meaning as provided in s. 39.4015(2)(d).

(b) “Kinship care” means the full-time care of a child placed in out-of-home care by the court in the home of a relative or fictive kin.

(c) “Kinship navigator program” means a program designed to ensure that kinship caregivers are provided with necessary resources for the preservation of the family.

(d) “Relative” means an individual who is caring full time for a child placed in out-of-home care by the court and who:

1. Is related to the child within the fifth degree by blood or marriage to the parent or stepparent of the child; or

2. Is related to a half-sibling of that child within the fifth degree by blood or marriage to the parent or stepparent.

(2) PURPOSE AND SERVICES.—

(a) The purpose of a kinship navigator program is to help relative caregivers and fictive kin in the child welfare system to navigate the broad range of services available to them and the children from public, private, community, and faith-based organizations.

(b) Subject to available resources, each community-based care lead agency may establish a kinship navigator program that:

1. Coordinates with other state or local agencies that promote service coordination or provide information and referral services, including any

entities that participate in the Florida 211 Network, to avoid duplication or fragmentation of services to kinship care families;

2. Is planned and operated in consultation with kinship caregivers and organizations representing them, youth raised by kinship caregivers, relevant governmental agencies, and relevant community-based or faith-based organizations;

3. Has a toll-free telephone hotline to provide information to link kinship caregivers, kinship support group facilitators, and kinship service providers to:

a. One another;

b. Eligibility and enrollment information for federal, state, and local benefits;

c. Relevant training to assist kinship caregivers in caregiving and in obtaining benefits and services; and

d. Relevant knowledge related to legal options available for child custody, other legal assistance, and help in obtaining legal services.

4. Provides outreach to kinship care families, including by establishing, distributing, and updating a kinship care website, or other relevant guides or outreach materials; and

5. Promotes partnerships between public and private agencies, including schools, community-based or faith-based organizations, and relevant governmental agencies, to increase their knowledge of the needs of kinship care families to promote better services for those families.

(3) RULEMAKING.—The department may adopt rules to implement this section.

Section 4. Paragraph (e) of subsection (1) of section 39.521, Florida Statutes, is amended to read:

39.521 Disposition hearings; powers of disposition.—

(1) A disposition hearing shall be conducted by the court, if the court finds that the facts alleged in the petition for dependency were proven in the adjudicatory hearing, or if the parents or legal custodians have consented to the finding of dependency or admitted the allegations in the petition, have failed to appear for the arraignment hearing after proper notice, or have not been located despite a diligent search having been conducted.

(e) The court shall, in its written order of disposition, include all of the following:

1. The placement or custody of the child.

2. Special conditions of placement and visitation.
3. Evaluation, counseling, treatment activities, and other actions to be taken by the parties, if ordered.
4. The persons or entities responsible for supervising or monitoring services to the child and parent.
5. Continuation or discharge of the guardian ad litem, as appropriate.
6. The date, time, and location of the next scheduled review hearing, which must occur within the earlier of:
 - a. Ninety days after the disposition hearing;
 - b. Ninety days after the court accepts the case plan;
 - c. Six months after the date of the last review hearing; or
 - d. Six months after the date of the child's removal from his or her home, if no review hearing has been held since the child's removal from the home.
7. If the child is in an out-of-home placement, child support to be paid by the parents, or the guardian of the child's estate if possessed of assets which under law may be disbursed for the care, support, and maintenance of the child. The court may exercise jurisdiction over all child support matters, shall adjudicate the financial obligation, including health insurance, of the child's parents or guardian, and shall enforce the financial obligation as provided in chapter 61. The state's child support enforcement agency shall enforce child support orders under this section in the same manner as child support orders under chapter 61. Placement of the child shall not be contingent upon issuance of a support order.
 - 8.a. If the court does not commit the child to the temporary legal custody of an adult relative, legal custodian, or other adult approved by the court, the disposition order must ~~shall~~ include the reasons for such a decision and shall include a determination as to whether diligent efforts were made by the department to locate an adult relative, legal custodian, or other adult willing to care for the child in order to present that placement option to the court instead of placement with the department.
 - b. If no suitable relative is found and the child is placed with the department or a legal custodian or other adult approved by the court, both the department and the court shall consider transferring temporary legal custody to an adult relative approved by the court at a later date, but neither the department nor the court is obligated to so place the child if it is in the child's best interest to remain in the current placement.

For the purposes of this section, "diligent efforts to locate an adult relative" means a search similar to the diligent search for a parent, but without the continuing obligation to search after an initial adequate search is completed.

9. Other requirements necessary to protect the health, safety, and well-being of the child, to preserve the stability of the child’s child care, early education program, or any other educational placement, and to promote family preservation or reunification whenever possible.

Section 5. Paragraph (b) of subsection (2) of section 39.6012, Florida Statutes, is amended to read:

39.6012 Case plan tasks; services.—

(2) The case plan must include all available information that is relevant to the child’s care including, at a minimum:

(b) A description of the plan for ensuring that the child receives safe and proper care and that services are provided to the child in order to address the child’s needs. To the extent available and accessible, the following health, mental health, and education information and records of the child must be attached to the case plan and updated throughout the judicial review process:

1. The names and addresses of the child’s health, mental health, and educational providers;

2. The child’s grade level performance;

3. The child’s school record or, if the child is under the age of school entry, any records from a child care program, early education program, or preschool program;

4. Documentation of compliance or noncompliance with the attendance requirements under s. 39.604, if the child is enrolled in a child care program, early education program, or preschool program;

~~5.4.~~ Assurances that the child’s placement takes into account proximity to the school in which the child is enrolled at the time of placement;

~~6.5.~~ ~~A record of~~ The child’s immunizations;

~~7.6.~~ The child’s known medical history, including any known health problems;

~~8.7.~~ The child’s medications, if any; and

~~9.8.~~ Any other relevant health, mental health, and education information concerning the child.

Section 6. Section 39.604, Florida Statutes, is amended to read:

39.604 Rilya Wilson Act; short title; legislative intent; child care; early education; preschool requirements; ~~attendance and reporting responsibilities.~~—

(1) **SHORT TITLE.**—This section may be cited as the “Rilya Wilson Act.”

(2) **LEGISLATIVE INTENT.**—The Legislature recognizes that children who are in the care of the state due to abuse, neglect, or abandonment are at increased risk of poor school performance and other behavioral and social problems. It is the intent of the Legislature that children who are currently in the care of the state be provided with an age-appropriate education program to help ameliorate the negative consequences of abuse, neglect, or abandonment.

(3) **REQUIREMENTS.**—

(a) A child from birth to the age of school entry, who is under court-ordered protective supervision or in out-of-home care and is the custody of the Family Safety Program Office of the Department of Children and Families or a community-based lead agency, and enrolled in an a licensed early education or child care program must attend the program 5 days a week unless the court grants an exception due to the court determining it is in the best interest of a child from birth to age 3 years:

1. With a stay-at-home caregiver to remain at home.

2. With a caregiver who works less than full time to attend an early education or child care program fewer than 5 days a week.

(b) Notwithstanding s. 39.202, the department of Children and Families must notify operators of an the licensed early education or child care program, subject to the reporting requirements of this act, of the enrollment of any child from birth to the age of school entry, under court-ordered protective supervision or in out-of-home care. If the custody of the Family Safety Program Office of the Department of Children and Families or a community-based lead agency. When a child is enrolled in an early education or child care program regulated by the department, the child’s attendance in the program must be a required task action in the safety plan or the case plan developed for the child pursuant to this chapter. An exemption to participating in the licensed early education or child care program 5 days a week may be granted by the court.

(4) **ATTENDANCE AND REPORTING REQUIREMENTS.**—

(a) A child enrolled in an a licensed early education or child care program who meets the requirements of subsection (3) may not be withdrawn from the program without the prior written approval of the department Family Safety Program Office of the Department of Children and Families or the community-based care lead agency.

(b)1. If a child covered by this section is absent from the program on a day when he or she is supposed to be present, the person with whom the child resides must report the absence to the program by the end of the business day. If the person with whom the child resides, whether the parent or caregiver, fails to timely report the absence, the absence is considered to be

unexcused. The program shall report any unexcused absence or seven consecutive excused absences of a child who is enrolled in the program and covered by this act to the ~~local designated staff of the Family Safety Program Office of the department of Children and Families~~ or the community-based care lead agency by the end of the business day following the unexcused absence or seventh consecutive excused absence.

2. The department or community-based care lead agency shall conduct a site visit to the residence of the child upon receiving a report of two consecutive unexcused absences or seven consecutive excused absences.

3. If the site visit results in a determination that the child is missing, the department or community-based care lead agency shall follow the procedure set forth in s. 39.0141 ~~report the child as missing to a law enforcement agency and proceed with the necessary actions to locate the child pursuant to procedures for locating missing children.~~

4. If the site visit results in a determination that the child is not missing, the parent or caregiver shall be notified that failure to ensure that the child attends the ~~licensed~~ early education or child care program is a violation of the safety plan or the case plan. If more than two site visits are conducted pursuant to this paragraph subsection, staff shall ~~initiate action to~~ notify the court of the parent or caregiver's noncompliance with the case plan.

(5) EDUCATIONAL STABILITY.—Just as educational stability is important for school-age children, it is also important to minimize disruptions to secure attachments and stable relationships with supportive caregivers of children from birth to school age and to ensure that these attachments are not disrupted due to placement in out-of-home care or subsequent changes in out-of-home placement.

(a) A child must be allowed to remain in the child care or early education setting that he or she attended before entry into out-of-home care, unless the program is not in the best interest of the child.

(b) If it is not in the best interest of the child for him or her to remain in his or her child care or early education setting upon entry into out-of-home care, the caregiver must work with the case manager, guardian ad litem, child care and educational staff, and educational surrogate, if one has been appointed, to determine the best setting for the child. Such setting may be a child care provider that receives a Gold Seal Quality Care designation pursuant to s. 402.281, a provider participating in a quality rating system, a licensed child care provider, a public school provider, or a license-exempt child care provider, including religious-exempt and registered providers, and nonpublic schools.

(c) The department and providers of child care and early education shall develop protocols to ensure continuity if children are required to leave a program because of a change in out-of-home placement.

(6) TRANSITIONS.—In the absence of an emergency, if a child from birth to school age leaves a child care or early education program, the transition must be pursuant to a plan that involves cooperation and sharing of information among all persons involved, that respects the child’s developmental stage and associated psychological needs, and that allows for a gradual transition from one setting to another.

Section 7. This act shall take effect July 1, 2018.

Approved by the Governor March 23, 2018.

Filed in Office Secretary of State March 23, 2018.