

## CHAPTER 2015-130

### Committee Substitute for House Bill No. 7013

An act relating to adoption and foster care; amending s. 39.0016, F.S.; revising requirements for agreements between the Department of Children and Families and specified entities for the provision of educational services; amending s. 63.042, F.S.; deleting a prohibition against adoption by persons who are homosexual; specifying that a person may not be prohibited from adopting solely because he or she desires to educate the adopted child at home; amending s. 409.145, F.S.; revising roles and responsibilities of caregivers relating to educational settings; revising roles and responsibilities of the department, the community-based care lead agency, and other agency staff; amending s. 39.812, F.S.; requiring the community-based care lead agency to contact by telephone the child's adoptive family within a specified period after the date that the adoption is finalized; defining the term "reasonable effort"; requiring the agency to document specified information; requiring the agency to submit a report annually to the department; creating s. 409.1662, F.S.; providing the purpose of the adoption incentive program; directing the Department of Children and Families to establish an adoption incentive program for certain agencies and subcontracted providers; requiring that the department conduct a comprehensive baseline assessment of lead agencies' and subcontracted providers' performance and compile annual data for the most recent 5 years of available data; requiring the department to update the assessment annually; providing a nonexclusive list of factors for the assessment to identify; requiring that the department negotiate outcome-based agreements; requiring that several factors be included in the agreements; requiring the department to allocate incentive payments; requiring the department to report annually by a certain date specified information to the Governor and the Legislature; creating s. 409.1664, F.S.; defining terms; providing certain amounts payable to a qualifying adoptive employee who adopts specified children under certain circumstances subject to a specific appropriation to the department; providing prorated payments for a part-time employee and limiting the monetary benefit to one award per child; requiring that a qualifying adoptive employee apply to the agency head for the monetary benefit on forms approved by the department and include a certified copy of the final order of adoption; providing requirements for the approval of monetary benefits by the department; providing that the act does not preclude a qualifying adoptive employee from receiving any other assistance or incentive; requiring that parental leave for qualifying adoptive employees be provided; authorizing the department to adopt rules; requiring the Chief Financial Officer to submit payment to a qualifying adoptive employee depending on where he or she works; requiring state agencies to develop uniform procedures for informing employees about this benefit and for assisting the department in making eligibility determinations and processing applications; creating s. 409.1666, F.S.; requiring the Governor

to annually select and recognize certain individuals, families, or organizations for adoption achievement awards; requiring the department to define categories for the achievement awards and seek nominations for potential recipients; authorizing a direct-support organization established by the Office of Adoption and Child Protection to accept donations of products or services from private sources to be given to the recipients of the adoption achievement awards; amending s. 409.175, F.S.; requiring licensed child-placing agencies that provide adoption services for intercountry adoptions to meet specified requirements; requiring an adoption agency in this state which provides certain services to maintain records containing specified information; providing an effective date.

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

Section 1. Paragraph (b) of subsection (2) of section 39.0016, Florida Statutes, is amended to read:

39.0016 Education of abused, neglected, and abandoned children; agency agreements; children having or suspected of having a disability.—

(2) AGENCY AGREEMENTS.—

(b) The department shall enter into agreements with district school boards or other local educational entities regarding education and related services for children known to the department who are of school age and children known to the department who are younger than school age but who would otherwise qualify for services from the district school board. Such agreements shall include, but are not limited to:

1. A requirement that the department shall:

a. Ensure that Enroll children known to the department are enrolled in school or in the best educational setting that meets the needs of the child. The agreement shall provide for continuing the enrollment of a child known to the department at the same school of origin when, if possible if it is in the best interest of the child, with the goal of minimal avoiding disruption of education.

b. Notify the school and school district in which a child known to the department is enrolled of the name and phone number of the child known to the department caregiver and caseworker for child safety purposes.

c. Establish a protocol for the department to share information about a child known to the department with the school district, consistent with the Family Educational Rights and Privacy Act, since the sharing of information will assist each agency in obtaining education and related services for the benefit of the child. The protocol must require the district school boards or other local educational entities to access the department's Florida Safe Families Network to obtain information about children known to the

department, consistent with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s. 1232g.

d. Notify the school district of the department’s case planning for a child known to the department, both at the time of plan development and plan review. Within the plan development or review process, the school district may provide information regarding the child known to the department if the school district deems it desirable and appropriate.

e. Show no prejudice against a caregiver who desires to educate at home a child placed in his or her home through the child welfare system.

2. A requirement that the district school board shall:

a. Provide the department with a general listing of the services and information available from the district school board to facilitate educational access for a child known to the department.

b. Identify all educational and other services provided by the school and school district which the school district believes are reasonably necessary to meet the educational needs of a child known to the department.

c. Determine whether transportation is available for a child known to the department when such transportation will avoid a change in school assignment due to a change in residential placement. Recognizing that continued enrollment in the same school throughout the time the child known to the department is in out-of-home care is preferable unless enrollment in the same school would be unsafe or otherwise impractical, the department, the district school board, and the Department of Education shall assess the availability of federal, charitable, or grant funding for such transportation.

d. Provide individualized student intervention or an individual educational plan when a determination has been made through legally appropriate criteria that intervention services are required. The intervention or individual educational plan must include strategies to enable the child known to the department to maximize the attainment of educational goals.

3. A requirement that the department and the district school board shall cooperate in accessing the services and supports needed for a child known to the department who has or is suspected of having a disability to receive an appropriate education consistent with the Individuals with Disabilities Education Act and state implementing laws, rules, and assurances. Coordination of services for a child known to the department who has or is suspected of having a disability may include:

a. Referral for screening.

b. Sharing of evaluations between the school district and the department where appropriate.

c. Provision of education and related services appropriate for the needs and abilities of the child known to the department.

d. Coordination of services and plans between the school and the residential setting to avoid duplication or conflicting service plans.

e. Appointment of a surrogate parent, consistent with the Individuals with Disabilities Education Act and pursuant to subsection (3), for educational purposes for a child known to the department who qualifies.

f. For each child known to the department 14 years of age and older, transition planning by the department and all providers, including the department's independent living program staff, to meet the requirements of the local school district for educational purposes.

Section 2. Subsection (3) of section 63.042, Florida Statutes, is amended, subsection (4) is renumbered as subsection (3), and a new subsection (4) is added to that section, to read:

63.042 Who may be adopted; who may adopt.—

~~(3)—No person eligible to adopt under this statute may adopt if that person is a homosexual.~~

(3)(4) No person eligible under this section shall be prohibited from adopting solely because such person possesses a physical disability or handicap, unless it is determined by the court or adoption entity that such disability or handicap renders such person incapable of serving as an effective parent.

(4) No person eligible under this section shall be prohibited from adopting solely because he or she desires to educate the adopted child at home.

Section 3. Paragraphs (a) and (b) of subsection (2) of section 409.145, Florida Statutes, are amended to read:

409.145 Care of children; quality parenting; “reasonable and prudent parent” standard.—The child welfare system of the department shall operate as a coordinated community-based system of care which empowers all caregivers for children in foster care to provide quality parenting, including approving or disapproving a child’s participation in activities based on the caregiver’s assessment using the “reasonable and prudent parent” standard.

(2) QUALITY PARENTING.—A child in foster care shall be placed only with a caregiver who has the ability to care for the child, is willing to accept responsibility for providing care, and is willing and able to learn about and be respectful of the child’s culture, religion and ethnicity, special physical or psychological needs, any circumstances unique to the child, and family relationships. The department, the community-based care lead agency, and other agencies shall provide such caregiver with all available information

necessary to assist the caregiver in determining whether he or she is able to appropriately care for a particular child.

(a) Roles and responsibilities of caregivers.—A caregiver shall:

1. Participate in developing the case plan for the child and his or her family and work with others involved in his or her care to implement this plan. This participation includes the caregiver’s involvement in all team meetings or court hearings related to the child’s care.

2. Complete all training needed to improve skills in parenting a child who has experienced trauma due to neglect, abuse, or separation from home, to meet the child’s special needs, and to work effectively with child welfare agencies, the court, the schools, and other community and governmental agencies.

3. Respect and support the child’s ties to members of his or her biological family and assist the child in maintaining allowable visitation and other forms of communication.

4. Effectively advocate for the child in the caregiver’s care with the child welfare system, the court, and community agencies, including the school, child care, health and mental health providers, and employers.

5. Participate fully in the child’s medical, psychological, and dental care as the caregiver would for his or her biological child.

6. Support the child’s educational ~~school~~ success by participating in ~~school~~ activities and meetings associated with the child’s school or other educational setting, including Individual Education Plan meetings and meetings with an educational surrogate if one has been appointed, assisting with school assignments, supporting tutoring programs, ~~meeting with teachers and working with an educational surrogate if one has been appointed~~, and encouraging the child’s participation in extracurricular activities.

a. Maintaining educational stability for a child while in out-of-home care by allowing the child to remain in the school or educational setting that he or she attended before entry into out-of-home care is the first priority, unless not in the best interest of the child.

b. If it is not in the best interest of the child to remain in his or her school or educational setting upon entry into out-of-home care, the caregiver must work with the case manager, guardian ad litem, teachers and guidance counselors, and educational surrogate if one has been appointed to determine the best educational setting for the child. Such setting may include a public school that is not the school of origin, a private school pursuant to s. 1002.42, a virtual instruction program pursuant to s. 1002.45, or a home education program pursuant to s. 1002.41.

7. Work in partnership with other stakeholders to obtain and maintain records that are important to the child's well-being, including child resource records, medical records, school records, photographs, and records of special events and achievements.

8. Ensure that the child in the caregiver's care who is between 13 and 17 years of age learns and masters independent living skills.

9. Ensure that the child in the caregiver's care is aware of the requirements and benefits of the Road-to-Independence Program.

10. Work to enable the child in the caregiver's care to establish and maintain naturally occurring mentoring relationships.

(b) Roles and responsibilities of the department, the community-based care lead agency, and other agency staff.—The department, the community-based care lead agency, and other agency staff shall:

1. Include a caregiver in the development and implementation of the case plan for the child and his or her family. The caregiver shall be authorized to participate in all team meetings or court hearings related to the child's care and future plans. The caregiver's participation shall be facilitated through timely notification, an inclusive process, and alternative methods for participation for a caregiver who cannot be physically present.

2. Develop and make available to the caregiver the information, services, training, and support that the caregiver needs to improve his or her skills in parenting children who have experienced trauma due to neglect, abuse, or separation from home, to meet these children's special needs, and to advocate effectively with child welfare agencies, the courts, schools, and other community and governmental agencies.

3. Provide the caregiver with all information related to services and other benefits that are available to the child.

4. Show no prejudice against a caregiver who desires to educate at home a child placed in his or her home through the child welfare system.

Section 4. Subsection (6) is added to section 39.812, Florida Statutes, to read:

39.812 Postdisposition relief; petition for adoption.—

(6)(a) Once a child's adoption is finalized, the community-based care lead agency must make a reasonable effort to contact the adoptive family by telephone 1 year after the date of finalization of the adoption as a postadoption service. For purposes of this subsection, the term "reasonable effort" means the exercise of reasonable diligence and care by the community-based care lead agency to make contact with the adoptive family. At a minimum, the agency must document the following:

1. The number of attempts made by the community-based care lead agency to contact the adoptive family and whether those attempts were successful;

2. The types of postadoption services that were requested by the adoptive family and whether those services were provided by the community-based care lead agency; and

3. Any feedback received by the community-based care lead agency from the adoptive family relating to the quality or effectiveness of the services provided.

(b) The community-based care lead agency must report annually to the department on the outcomes achieved and recommendations for improvement under this subsection.

Section 5. Section 409.1662, Florida Statutes, is created to read:

409.1662 Children within the child welfare system; adoption incentive program.—

(1) PURPOSE.—The purpose of the adoption incentive program is to advance the state's achievement of permanency, stability, and well-being in living arrangements for children in foster care who cannot be reunited with their families. The department shall establish the adoption incentive program to award incentive payment to community-based care lead agencies, as defined in s. 409.986, and their subcontracted providers that are involved in the adoption process, for achievement of specific and measureable adoption performance standards that lead to permanency, stability, and well-being for children.

(2) ADMINISTRATION OF THE PROGRAM.—

(a) The department shall conduct a comprehensive baseline assessment of the performance of lead agencies and subcontracted providers related to adoption of children from foster care. The assessment shall compile annual data for each of the most recent 5 years for which data is available. The department shall update the assessment annually. At a minimum, the assessment shall identify:

1. The number of families attempting to adopt children from foster care and the number of families completing the adoption process.

2. The number of children eligible for adoption and the number of children whose adoptions were finalized.

3. The amount of time eligible children waited for adoption.

4. The number of adoptions that resulted in disruption or dissolution and the subset of those disrupted adoptions that were preventable by the lead agency or the subcontracted provider.

5. The time taken to complete each phase of the adoption process.

6. The expenditures made to recruit adoptive homes and a description of any initiative to improve adoption performance or streamline the adoption process.

7. The results of any specific effort to gather feedback from prospective adoptive parents, adoptive parents, children in the child welfare system, adoptees, and other stakeholders.

8. The use of evidence-based, evidence-informed, promising, and innovative practices in recruitment, orientation, and preparation of appropriate adoptive families, matching children with families, supporting children during the adoption process, and providing post-adoptive support.

(b) Using the information from the baseline assessment, the department shall annually negotiate outcome-based agreements with lead agencies and their subcontracted providers. The agreements must establish measureable outcome targets to increase the number of adoptions resulting in permanent placements that enhance children's well-being. The agreements will define the method for measuring performance and for determining the level of performance required to earn the incentive payment, and the amount of the incentive payment which may be earned for each target.

(3) INCENTIVE PAYMENTS.—

(a) The department shall allocate incentive payments to performance improvement targets in a manner that ensures that total payments do not exceed the amount appropriated for this purpose.

(b) The department shall ensure that the amount of the incentive payments are proportionate to the value of the performance improvement.

(4) REPORT.—The department shall report annually by November 15 to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the negotiated targets set for, outcomes achieved by, and incentive payments made to each lead agency during the previous fiscal year. The report shall also discuss the program enhancements made by each lead agency and its subcontracted providers to achieve negotiated outcomes under this section.

Section 6. Section 409.1664, Florida Statutes, is created to read:

409.1664 Adoption benefits for qualifying adoptive employees of state agencies.—

(1) As used in this section, the term:

(a) "Child within the child welfare system" has the same meaning as provided in s. 409.166.



(b) “Qualifying adoptive employee” means a full-time or part-time employee of a state agency who is paid from regular salary appropriations, or otherwise meets the state agency employer’s definition of a regular rather than temporary employee, and who adopts a child within the child welfare system pursuant to chapter 63 on or after July 1, 2015. The term includes instructional personnel, as defined in s. 1012.01, who are employed by the Florida School for the Deaf and the Blind.

(c) “State agency” means a branch, department, or agency of state government for which the Chief Financial Officer processes payroll requisitions, a state university or Florida College System institution as defined in s. 1000.21, a school district unit as defined in s. 1001.30, or a water management district as defined in s. 373.019.

(2) A qualifying adoptive employee who adopts a child within the child welfare system who has special needs described in s. 409.166(2)(a)2. is eligible to receive a lump-sum monetary benefit in the amount of \$10,000 per such child, subject to applicable taxes. A qualifying adoptive employee who adopts a child within the child welfare system who does not have special needs described in s. 409.166(2)(a)2. is eligible to receive a lump-sum monetary benefit in the amount of \$5,000 per such child, subject to applicable taxes.

(a) Benefits paid to a qualifying adoptive employee who is a part-time employee must be prorated based on the qualifying adoptive employee’s full-time equivalency at the time of applying for the benefits.

(b) Monetary benefits awarded under this subsection are limited to one award per adopted child within the child welfare system.

(c) The payment of a lump-sum monetary benefit for adopting a child within the child welfare system under this section is subject to a specific appropriation to the department for such purpose.

(3) A qualifying adoptive employee must apply to his or her agency head to obtain the monetary benefit provided in subsection (2). Applications must be on forms approved by the department and must include a certified copy of the final order of adoption naming the applicant as the adoptive parent. Monetary benefits shall be approved on a first-come, first-served basis based upon the date that each fully completed application is received by the department.

(4) This section does not preclude a qualifying adoptive employee from receiving adoption assistance for which he or she may qualify under s. 409.166 or any other statute that provides financial incentives for the adoption of children.

(5) Parental leave for a qualifying adoptive employee must be provided in accordance with the personnel policies and procedures of the employee’s state agency employer.

(6) The department may adopt rules to administer this section. The rules may provide for an application process such as, but not limited to, an open enrollment period during which qualifying adoptive employees may apply for monetary benefits under this section.

(7) The Chief Financial Officer shall disburse a monetary benefit to a qualifying adoptive employee upon the department's submission of a payroll requisition. The Chief Financial Officer shall transfer funds from the department to a state university, Florida College System institution, school district unit, or water management district, as appropriate, to enable payment to the qualifying adoptive employee through the payroll systems as long as funds are available for such purpose.

(8) Each state agency shall develop a uniform procedure for informing employees about this benefit and for assisting the department in making eligibility determinations and processing applications. Any procedure adopted by a state agency is valid and enforceable if the procedure does not conflict with the express terms of this section.

Section 7. Section 409.1666, Florida Statutes, is created to read:

409.1666 Annual adoption achievement awards.—Each year, the Governor shall select and recognize one or more individuals, families, or organizations that make significant contributions to enabling this state's foster children to achieve permanency through adoption. The department shall define appropriate categories for the achievement awards and seek nominations for potential recipients in each category from individuals and organizations knowledgeable about foster care and adoption.

(1) The award shall recognize persons whose contributions involve extraordinary effort or personal sacrifice in order to provide caring and permanent homes for foster children.

(2) A direct-support organization established in accordance with s. 39.0011 by the Office of Adoption and Child Protection within the Executive Office of the Governor may accept donations of products or services from private sources to be given to the recipients of the adoption achievement awards. The direct-support organization may also provide suitable plaques, framed certificates, pins, and other tokens of recognition.

Section 8. Subsection (18) is added to section 409.175, Florida Statutes, to read:

409.175 Licensure of family foster homes, residential child-caring agencies, and child-placing agencies; public records exemption.—

(18)(a) A licensed child-placing agency conducting intercountry adoptions must meet United States Department of State requirements for accreditation or supervision.

(b) A licensed child-placing agency providing adoption services for intercountry adoption in countries that are parties to the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, in incoming or outgoing cases, must meet the federal regulations pertaining to intercountry adoptions with convention countries.

(c) An adoption agency in this state which provides intercountry adoption services for families residing in this state must maintain a record that contains, at a minimum, the following:

1. All available family and medical history of the birth family;
2. All legal documents translated into English;
3. All necessary documents obtained by the adoptive parent in order for the child to attain United States citizenship or, if applicable, other legal immigration status; and
4. All supervisory reports prepared before an adoption and after finalization of an adoption.

Section 9. This act shall take effect July 1, 2015.

Approved by the Governor June 11, 2015.

Filed in Office Secretary of State June 11, 2015.