

# CLS 2020 LEGISLATIVE GUIDE

## SB 1326—CHILD WELFARE

This bill took effect on July 1, 2020. Ch. 2020-153, Laws of Florida.

### Quality Assurance

- **Quality Office**—New section 402.715, Florida Statutes, creates the Office of Quality to ensure the Department and its contracted service providers achieve high levels of performance. The Office of Quality is tasked with:
  - identifying performance standards for the Department and all contracted service providers,
  - strengthening the Department’s capabilities to identify systemic strengths and deficiencies, and
  - recommending initiatives to correct programmatic and systemic deficiencies.
- **Accountability System**—New section 409.996(24), Florida Statutes, requires the creation of an accountability system by July 1, 2021. It must:
  - assess the health of child welfare system;
  - include a quality measurement system to measure CPIs, lead agencies, and CLS; and
  - align with results-oriented accountability.

### Accountability for Sheriffs and Contracted Attorneys

- **Attorneys**—Section 409.996(18)(a), Florida Statutes, permits the Department to contract for the provision of children’s legal services.
  - Section 409.996(18)(b), Florida Statutes, requires all contracted attorneys to adopt the child welfare practice model and to operate in accordance with the same federal and state performance standards and metrics imposed on Children’s Legal Services attorneys employed by the Department.
  - Section 409.996(18)(c), Florida Statutes, requires the Department and contracted attorneys to collaborate to monitor program performance on an ongoing basis and meet quarterly.
  - Section 409.996(18)(d), Florida Statutes, requires the Department to conduct an annual evaluation of all contracted attorneys. It must be based on the same standards imposed on attorneys employed by the Department. It shall be conducted by a team of peer reviewers from the respective contracted attorneys’ offices and representative from the Department.
  - Section 409.996(18)(d), Florida Statutes, requires the Department publish an annual report on performance quality, outcome-measure attainment, and cost efficiency by November 1 each year.
- **Sheriffs**—New section 39.3065(3)(d), Florida Statutes, requires the Department and sheriffs to collaborate to monitor program performance on an ongoing basis and requires the Department to conduct an annual evaluation of all sheriffs.
  - New section 39.3065(3)(e) specifies Pasco, Manatee, Broward, and Pinellas Sheriffs will be based only on federal performance standards and metrics, and state

performance measures that are not based on the child welfare practice model. All other sheriffs will be measured on the child welfare practice model.

### **Pilot Projects**

- Section 409.996(25), Florida Statutes, establishes two 2-year pilot projects to improve child welfare services in the Sixth and Thirteenth Judicial Circuits, subject to an appropriation.

## **HB 1105—CHILD WELFARE**

This bill took effect on July 1, 2020. Ch. 2020-138, Laws of Florida.

### **Florida Court Education Council**

- **Judicial Training**—New section 25.385, Florida Statutes, requires the Council to establish standards for instruction of dependency judges regarding benefits of secure attachment, importance of a stable placement, and impact of trauma on child development.

### **Early Childhood Court Programs**

- **ECC**—New section 39.01304, Florida Statutes, permits a circuit court to create an early childhood court program, considering:
  - the court supporting the therapeutic needs of the parent and child in a nonadversarial manner;
  - a multidisciplinary team made up of stakeholders to restructure the way the community responds to the needs of the abused or neglected children;
  - a community coordinator to facilitate services and resources for families, serve as a liaison between a multidisciplinary team and the judiciary, and manage data collection for program evaluation and accountability; and
  - a continuum of mental health services that includes those that support the parent-child relationship and are appropriate for the children and family served.
- **OSCA**—Section 39.01304(2), Florida Statutes, requires the Office of State Courts Administrator shall contract for evaluation of the ECC programs to ensure the quality, accountability, and fidelity of the programs' evidence-based treatment.

### **Investigations**

- **Abuse Reports in Current Cases**—New section 39.301(1)(b), Florida Statutes, requires the Department to promptly notify the court of any report to the central abuse hotline that is accepted for a protective investigation and involves a child over whom the court has jurisdiction.
- **CPI Concurrence** —New section 39.301(9)(a)(6)(d), Florida Statutes, permits the Department to file a petition for shelter or dependency without a new child protective investigation or the concurrence of the CPI if the child is unsafe but for the use of a safety

plan and the parent or caregiver has not sufficiently increased protective capacities within 90 days after the transfer of the safety plan to the lead agency.

### **Postdisposition Change of Custody**

- **Factors to consider**—Section 39.522(1) is revised to now require a court when considering whether a change of legal custody or placement is the best interests of the child to consider:
  - the child’s age,
  - the physical, mental, and emotional health benefits to the child by remaining in his or her current placement or moving to the proposed placement,
  - the stability and longevity of the child's current placement,
  - the established bonded relationship between the child and the current or proposed caregiver,
  - the reasonable preference of the child, if the court has found that the child is of sufficient intelligence, understanding, and experience to express a preference.
  - the recommendation of the child's current caregiver,
  - the recommendation of the child's guardian ad litem, if one has been appointed.
  - the child's previous and current relationship with a sibling, if the change of legal custody or placement will separate or reunite siblings,
  - the likelihood of the child attaining permanency in the current or proposed placement, and
  - any other relevant factors.
- **Return to out-of-home care**—New section 39.522(4), Florida Statutes, addresses cases in which the issue is whether to place a child in out-of-home care after the child was placed in the child’s own home with an in-home safety plan or reunified with a parent or caregiver with an in-home safety plan. In those instances, the court must consider:
  - the circumstances that caused the child's dependency and other subsequently identified issues,
  - the length of time the child has been placed in the home with an in-home safety plan,
  - the parent's or caregiver's current level of protective capacities, and
  - the level of increase, if any, in the parent's or caregiver's protective capacities since the child's placement in the home based on the length of time the child has been placed in the home.

The court shall also evaluate the child’s permanency goal and change the goal as needed if in the best interests of the child. If the goal is changed, the case pan must be amended.

### **Case Plans**

- **Productive Relationships**—Section 39.6011(5), Florida Statutes, now requires a case plan to describe the responsibility of the parents and caregivers to work together when it is safe to do so, including:
  - How they will work together to successfully implement the case plan.
  - How the case manager will assist them in developing a productive relationship that includes meaningful communication and mutual support.
  - How they may notify the court or the case manager if ineffective communication takes plans that negatively impacts the child.

## Jurisdiction

- **Existence of In-Home Safety Plan**—Section 39.701(1)(b)(2), Florida Statutes, will now require the court to retain jurisdiction over a child if the child is placed in the home with a parent or caregiver with an in-home safety plan and such safety plan remains necessary for the child to reside safely in the home.

## Adoption of Children from the Child Welfare System

- **Preliminary Home Study**—Section 63.092(3), Florida Statutes, now requires a preliminary home study to be completed within 30 days after it is initiated if the identified prospective adoptive minor is in the custody of the Department.
- **Inquiries\***—New section 63.093(1), Florida Statutes, requires the Department/CBC/subcontractor to respond to an initial inquiry from a prospective adoptive parent within 7 business days after receipt of the inquiry.
- **Training\***—New section 63.093(2), Florida Statutes, requires the Department/CBC/subcontractor to refer a prospective adoptive parent who is interested in adopting a child in the custody of the Department to a department-approved adoptive parent training program. A prospective adoptive parent must successfully complete the training program, unless the prospective adoptive parent is a licensed foster parent or a relative or nonrelative caregiver who has:
  - attended the training program within the last 5 years; or
  - had the child who is available for adoption placed in their home for 6 months or longer and has been determined to understand the challenges and parenting skills needed to successfully parent the child who is available for adoption.
- **Application\***—New section 63.093(3), Florida Statutes, requires a prospective adoptive parent to complete an adoption application created by the Department.
- **Adoption Home Study\***—New section 63.093(4), Florida Statutes, requires the CBC or its subcontractor to complete an adoption home study that includes observation, screening, and evaluation of the child and the prospective adoptive parent before a child is placed in an adoptive home. New subsection 63.093(5) requires the CBC/subcontractor to approve or deny the home study within 14 business days after receipt of the recommendation.

\*These provisions do not apply to a child adopted through intervention pursuant to section 63.082(6).

## Parenting Partnerships

- **Relationships between caregivers and parents**—New section 409.1415(2)(a), Florida Statutes, requires the Department and CBCs to develop relationships, to the extent it is safe and in the child's best interest by:
  - facilitating telephone communication,
  - facilitating in-person meetings,
  - developing a plan for the birth parent to participate in medical appointments, educational activities, and other events involving the child,
  - facilitating participation by the caregiver in visitation between the child and parent,
  - involving caregiver in planning meetings with the parent,

- developing transition plans for the child’s return home, and
- supporting continued contact between the caregiver and child after the child returns home or moves to another permanent living arrangement.
- **Requirements for Healthy Development**—New section 409.1451(2)(b), Florida Statutes, requires:
  - the caregiver, parents, Department and CBC to interact professionally, share all relevant information promptly, and respect confidentiality,
  - the caregivers, parents, Department and CBC to participate in developing a case plan and caregiver must have opportunity to participate in team meetings and hearing by getting timely notification and providing alternative methods for participation if caregiver cannot be physically present,
  - caregiver to respect child’s individuality and involve child in community,
  - Department and CBC must provide caregiver with all information necessary to assist caregiver in determining whether he/she is able to care for the child,
  - caregiver to have access to training,
  - Department and CBC to provide caregiver with services,
  - once a caregiver accepts responsibility of caring for a child, the child may be removed from the home only if:
    - the caregiver is clearly unable to safely or legally care for the child;
    - the child and parent are reunified;
    - the child is being placed in a legally permanent home in accordance with a case plan or court order; or
    - the removal is demonstrably in the best interests of the child.
  - if a child must leave a caregiver’s home, in the absence of an unforeseen emergency, the transition must respect the child’s developmental stage and psychological needs, ensures the child has all belongings, allows for a gradual transition, and allows for continued contact with caregiver if possible,
  - if case plan goal is reunification, caregiver, Department, and CBC must work together to assist the parent in improving his/her ability to care for and protect the child,
  - caregiver must respect child’s ties to birth family and assist in maintaining visitation,
  - caregiver must work with Department and CBC to obtain and maintain records,
  - caregiver must advocate for a child in the system, the court, and community,
  - caregiver must be fully involved in child’s medical, psychological, and dental care,
  - caregiver must support school success,
  - caregiver must ensure child between 13 and 17 learns independent living skills, and
  - case manager and supervisor must mediate disagreements between caregiver and parent.
- Those portions of section 409.145(2), Florida Statutes, concerning quality parenting are stricken.

## Licensure

- **Timeframes**—Section 409.175(6)(b), Florida Statutes, is revised to require the Department to complete a licensing study of a family foster home within 30 days of initiation. New section 409.175(6)(d), Florida Statutes, requires the Department to approve or deny an application for licensure within 10 business days after receipt of the completed application; the Department shall approve or deny an application no later than 100 calendar days after the orientation, but the Department may exceed 100 days if additional certifications are required.

## HB 43—“JORDAN’S LAW”

This bill took effect on July 1, 2020. Ch. 2020-40, Laws of Florida.

## Recognition of Head Trauma

- **Judicial training**—Section 25.385(2), Florida Statutes, now requires the dependency judiciary to receive training on the recognition of and responses to head trauma and brain injury in a child under 6 years of age.
- **CPT**—Section 39.303(3)(h), Florida Statutes, now requires the CPT team of being capable of providing training on the recognition of and responses to head trauma and brain injury in a child under 6 years of age.
- **GAL**—Section 39.8296(2), Florida Statutes, now requires program training on the recognition of and responses to head trauma and brain injury in a child under 6 years of age.
- **CPI**—Section 402.402(2), Florida Statutes, now requires Department and sheriff CPIs to receive training developed by CPT on the recognition of and responses to head trauma and brain injury in a child under 6 years of age.
- **CLS**—Section 402.402(4), Florida Statutes, now requires CLS lawyers to receive training in the first 6 months of employment on the recognition of and responses to head trauma and brain injury in a child under 6 years of age.
- **Case Management**—Section 409.988(1)(f), Florida Statutes, now requires lead agencies to provide anyone providing care for children to receive training developed by CPT on the recognition of and responses to head trauma and brain injury in a child under 6 years of age.
- **Law Enforcement**—New section 943.17298, Florida Statutes, requires each law enforcement officer to receive training on the recognition of and responses to head trauma and brain injury in a child under 6 years of age before July 1, 2022.

## Parent Interaction with Law Enforcement

- **Department information**—New section 39.0142, Florida Statutes, requires the Department to provide information to law enforcement officers stating whether a parent or caregiver is currently the subject of an investigation or is a parent or caregiver of a child who has been allowed to return home under judicial supervision after an adjudication.

- **LEO report**—New section 39.0142(1), Florida Statutes, requires a law enforcement officer who has an interaction with a parent that causes concern about a child to call the central abuse hotline, even if the requirements to have actual knowledge of abuse, abandonment, or neglect are not met.
- **Information to Field**—New section 39.0142(2), Florida Statutes, requires to the hotline to provide information to the CPI, if there is an investigation, or to the case manager and CLS, if the child is under judicial supervision after and adjudication of dependency.

## SB 124—CUSTODY BY EXTENDED FAMILY

This bill took effect on July 1, 2020. Ch. 2020-147, Laws of Florida.

### Temporary Custody by Extended Family

- **Extended Family Member**—Section 751.011(2), Florida Statutes, now incorporates an individual who qualifies as fictive kin into the definition of extended family member.
- **Length of custody**—Section 751.02(2), Florida Statutes, is revised to permit an individual seeking concurrent custody of a child to have either current physical custody of the child or have had physical custody for at least 10 days in any 30-day period within 12 months. Prior law required both conditions.
- **Petition**—New section 751.03(14), Florida Statutes, requires a petition for temporary or concurrent custody to contain provisions relating to the best interest of the child, including a reasonable plan for transitioning custody.
- **Order**—Section 751.05(4), Florida Statutes, now permits an order establishing concurrent custody provision that relate to the best interest of the child, including a reasonable transition plan that provides for return of custody back to the parent.
- **Parent petition**—Section 751.06, Florida Statutes, now permits a court to modify an order granting custody upon a parent’s petition if the parties consent or if modification is in the child’s best interest. The court may require the parties to comply with provisions in the order related to transitioning custody before terminating the order. If the order granting custody was made after finding the parent unfit and the child has been in the temporary custody of the extended family member for a significant time, the court may establish reasonable conditions for transitioning the child back to the custody of the parent.

## HB 197—SERVICEMEMBERS CIVIL RELIEF ACT

This bill took effect on July 1, 2020. Ch. 2020-65, Laws of Florida.

### Abandonment

- **Definition**—Section 39.01(1), Florida Statutes, is revised to provide that the absence of a parent, legal custodian, or caregiver responsible for a child's welfare, who is a

servicemember, by reason of deployment or anticipated deployment as defined in U.S.C. s. 3938(e), may not be considered or used as a factor in determining abandonment.

- **Servicemembers Civil Relief Act**—Section 39.0137(3), Florida Statutes, requires the Department to ensure that the Servicemembers Civil Relief Act is observed in cases where a parent, legal custodian, or caregiver responsible for a child's welfare, by virtue of his or her service, is unable to take custody of the child or appear before the court in person.