



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #203

Out-of-Home Care Extension (Children and Families -- Children and Families)

[LFB 2015-17 Budget Summary: Page 90, #3]

CURRENT LAW

Extension of Out-of-Home Care. Under current law, children may be placed in out-of-home care by an order of the juvenile court or a voluntary placement agreement between a parent and a caregiver and involving a child welfare agency. Dispositional court orders that place a child in out-of-home care generally terminate on when the child reaches 18 years of age.

2013 Act 334 permits a child who is in out-of-home care and who has an individualized education program (IEP) to continue in such care until the child is granted a high school diploma or its equivalent or until he or she reaches 21 years of age, whichever occurs first, if: (a) the child is a full-time student at a high school or its vocational or technical equivalent (full-time student); and (b) the child is 17 years of age or older when the dispositional order is entered and the child (or the child's guardian) agrees to the order. An IEP is a written statement for a child with a disability that is developed to provide the child with an appropriate education.

For those in out-of-home care whose dispositional order would terminate after attaining the age of 18, not less than 120 days before the dispositional order terminates, the agency primarily responsible for providing services under the order must request that the youth indicate whether he or she wishes to be discharged from out-of-home care or wishes to continue in out-of-home care under a voluntary transition-to-independent-living agreement. If the child wishes to continue in out-of-home care, the agency will enter into such an agreement. Otherwise, the agency must request a transition-to-discharge hearing (and provide services to assist the youth's transition out of the out-of-home care system into independent living).

GOVERNOR

The bill would provide for a number of statutory changes, including: (a) providing that if the Department of Children and Families (DCF), the Department of Corrections (DOC), or a county (the agency) enters into such an agreement with a child, the agreement must specifically state that DCF, DOC, or the county has placement and care responsibility for the child and has primary responsibility for providing services to the child; (b) requiring the agency that executes the transition-to-independent-living agreement to petition the juvenile court for a hearing; and (c) requiring the juvenile court to determine whether placement of the child in out-of-home care under the agreement is in the best interests of the child (best interest hearing).

A community-based residential facility (CBRF) may admit and provide services for adults, such as those with advanced age, mental health problems, or physical disabilities. Under current law, subject to certain exceptions, a facility where five or more adults (who do not require care above intermediate level nursing care) reside and receive care, treatment, or services that are above the level of room and board must be licensed as a community-based residential facility. The bill would provide an exception to CBRF licensure requirements for foster homes, group homes, and residential care centers. This would enable the extension of out-of-home care to full-time students with an IEP over the age of 18 without necessitating CBRF licensing. Foster homes, group homes, and residential care centers would continue to be licensed as such by DCF.

MODIFICATION

First, modify the CBRF licensure exception for group homes and residential care centers. No general exception to CBRF licensure would be provided to group homes and residential care centers. Instead, modify the language of the bill such that DCF licensed group homes and residential care centers would not have to be licensed through DHS as a CBRF in order to provide care pursuant to s. 48.366 or 938.366.

Second, modify the bill to require in s. 48.366 that: (a) the agency must petition the juvenile court for a best interest hearing within 150 days of executing a voluntary transition-to-independent living agreement; (b) any such determination by the court must be on a case-by-case basis based on circumstances specific to the child and must document or reference the specific information on which the findings are based; (c) the agency must provide the specific information regarding why the placement is in the child's best interest; (d) the court must make the determination no later than 180 days into the voluntary placement; and (e) that no continuance may be granted for a best interest hearing if the continuance would extend the hearing beyond 180 days of the child's voluntary placement.

Third, amend section 48.185 to clarify that venue for a hearing under s. 48.366 (permanency hearing and review) must be in the county in which the most recent dispositional order was issued.

Explanation: The administration indicates that the bill language providing for the CBRF licensure exception is overly broad. The intent of the bill was to provide for a limited CBRF licensure exception for youth extended in out-of-home care and not to provide a more general exemption for

foster homes, group homes, and residential care centers that serve them. The current language would effectively provide group homes and residential care centers an exception to serve other persons without CBRF licensure simply because they happen to serve youth extended in out-of-home care. The modification would limit the exception to youth extended in out-of-home care under an IEP. The remaining modifications to the bill are intended to conform with federal law.

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