

2024 Legislative Update

Child Welfare and Related
Laws



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Agenda: What Passed What Failed Federal Rules



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What Passed

- Community Based Child Welfare Agencies
- Young Adult Aftercare Services
- Permanency for Children
- Surrendered Infants
- Dependent Children
- Supported Decision Making
- Juvenile Justice
- Online Access to Harmful Materials
- Interception of Communication
- Employment & Curfew



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CBC Child Welfare Agencies HB 7089

[effective 7/1/24]



Medical Debt, Price Transparency, Billing and Collecting; Health Insurance
 Explanation of Benefits, Shared savings . . . **CBC – DCF relationship**

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CBC Child Welfare Agencies HB 7089

§409.987. Lead Agency Procurement

- CBC contracts can only be extended for 1-5 years, if meeting performance expectations
- CBC Board members
 - Provide oversight & accountability
 - Take annual training re responsibilities
- Requires disclosure to DCF of conflicts of interest in “related party”
 - Includes subsidiary, parent, associate firm, joint venture, and board members, directors, officers and their relatives
 - Permits contracts if price doesn’t exceed fair market value

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CBC Child Welfare Agencies HB 7089

§409.988. Lead Agency Duties

- Requires regular independent auditing.
- Revises rule on subcontracting
 - CBCs lead agencies are not supposed to do more than 35% of service provision.
 - Must get an exemption from DCF to do more, only good for 2 years
 - Must submit operational audit if they are doing more than 40%

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CBC Child Welfare Agencies HB 7089

§409.988. Lead Agency Duties - Reporting

- Adds items to Mandatory Report Published on CBC Websites
 - # of unlicensed placements in the past month
 - % and trends of foster parent and group home recruitment and licensure
 - % of families served in family support, in-home and out of home services
 - % of cases converted from nonjudicial to judicial
 - Children's legal services staffing rates



Take some time every few months to check out the CBC reports, you may find something you can use in your advocacy.

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CBC Child Welfare Agencies HB 7089

§409.9913. Funding Methodology

- Directs DCF to work with CBCs & Providers to develop new funding methodology that is
 - Reimbursement based, incentivizes effective & efficiency, scalable to account for regional variance.
- Sets reporting deadlines
- Funding per new methodology in FY 25-26

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CBC Child Welfare Agencies HB 7089 Future of Child Protection Contracting & Funding Workgroup

- DCF convenes workgroup
- Examine current contracting methods
- Consider unique regional needs
- Current barriers to implementing prevention services
- Recommend changes to existing laws, rules and policies

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Florida Youth SHINE Priority -Aftercare

1. Florida puts its resources into outfitting the young people who turned 18 in licensed care for their journey to success. **But it denies those resources to young people who were placed with relatives and non-relatives by** excluding them from Aftercare.
2. The young people in EFC or PESS are not able to get the additional support that is available in Aftercare.
3. DCF is constrained by current law in helping youth when additional federal funds become available.

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Aftercare is Services & Financial Support

Aftercare Services Include

- Mentoring or tutoring
- Mental Health Services
- Substance abuse counseling
- Life skills classes
- Parenting classes
- Job and Career skills training
- Counselor consultations
- Temporary financial assistance
- Financial literacy skills training
- Daycare referrals
- Educational extracurricular activities
- Emergency financial assistance to overcome barriers to self-sufficiency

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Young Adult Aftercare Services SB 564

Amends Aftercare Eligibility in §409.1451 [effective 7/1/24]

Who is Eligible for Aftercare?

Young adults who were previously in the foster care system if they are now between the ages of 18 and 23. And

Were placed by the dependency court into out of home care* for 6 months or more, after they turned age 14 and either:

- Turned 18 when they were still in out of home care,
- Were adopted,
- Were placed into a guardianship, or
- Were emancipated by a court prior to turning age 18.

* Out of home care includes youth placed in foster care and those placed with relatives or non-relatives, whether or not they obtained a foster parent license.

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Young Adult Aftercare Services SB 564 **Amends Aftercare Eligibility in §409.1451**

Who is NOT Eligible for Aftercare?

- Young adults who were previously in the foster care system and were reunified with their parents prior to age 18.
- Young adults who were in the foster care system, but left it before age 14, or without spending 6 months in out of home care after age 14.

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Young Adult Aftercare Services SB 564 **Adds Emergency Override in §409.1451**

(11) authorizes DCF to “distribute federal funds to all young adults deemed eligible by the funding source in the event of a state or national emergency.”

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Permanency for Children HB 1083

[effective 7/1/24]



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Permanency for Children HB 1083

Criminal History Checks §39.0138

- Background Checks for Emergency Placements under §39.402
 - Name-based criminal history check for proposed caregiver and all other adult household members.
 - Placement can be made if no one is disqualified
- Fingerprints for caregiver, adult household members and visitors must be submitted.

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Permanency for Children HB 1083

Criminal History Checks §39.0138

- Fingerprints must be submitted to FDLE within 7 calendar days of a name check.
- Within 15 days of the name check, FDLE must submit the fingerprints to FBI
- Visitors §39.01- add definition of visitors as those who
 - Provide care and supervision to children or
 - Are 12 and older who are in the home 5 consecutive days or 7 or more days in a month

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Permanency for Children HB 1083

New Statute §39.5035 Deceased Parents



- Parents are dead and no legal custodian appointed in probate or guardianship.
- DCF or any knowledgeable person can file Petition for Adjudication and Permanent Commitment
 - If child is sheltered but not adjudicated, petition must be filed in 21 days
 - If child is adjudicated a petition for permanent commitment must be filed within a reasonable time.
 - All other cases, must be filed in a reasonable time

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Permanency for Children HB 1083

Deceased Parents Procedure

- Notice served on
 - Physical custodian
 - Living relative of each parent
 - Guardian ad litem.
- Adjudicatory hearing is judge only, rules of evidence in civil cases apply
- Clear and convincing evidences that both parents are dead or last known living parent is dead and other cannot be found.

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Permanency for Children HB 1083

Deceased Parents Procedure

- If court finds them deceased must adjudicate dependent and permanent commit to the custody of DCF for adoption.
 - Disposition hearing in 30 days, with case plan
- If court does not find them deceased but there is preponderance of evidence that there is no parent or legal custodian to provide care, court must adjudicate child dependent
- If neither, court must dismiss the petition.

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Permanency for Children HB 1083

§39.522 Postdisposition Change of Custody

- Authorizes emergency removals from court ordered placements
 - Upon request of the caregiver, or
 - If there is probable cause to shelter
- If child was not in licensed care DCF must move to modify placement within 1 business day
 - Court must hear within 24 hours unless caregiver agrees
 - Court can accept all relevant & material evidence

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Permanency for Children HB 1083

§39.522 Postdisposition Change of Custody


- If court finds no probable cause, child is ordered returned to placement
- If caregiver agrees or court finds probable cause, court must order change of placement
- Court must still conduct hearing under subsections (2) modification or (3) change of physical custody



Transition Plan is Required within 72 hours– 39.4023(3)(d)


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Permanency for Children HB 1083


§39.6221 Permanent Guardianship



- Successor Guardianship can be entered 3 months after the child went to live with the caregiver (rather than 6) if
 - Successor guardian was named in the original guardianship assistance agreement
 - Child previously knew the successor guardian.

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Permanency for Children HB 1083

§39.6226 Guardianship Assistance Agreements

§409.1451 Postsecondary Education Services & Supports


§409.166 Adoption Assistance



- Increases population of youth eligible for post 18 assistance by lowering the age at which they achieve permanency from 16 to 14.
 - Extended Guardianship Assistance Payments, case closed to guardianship after turning 14.
 - Extended Maintenance Adoption Subsidies, case closed to adoption after turning 14.
 - Postsecondary Education Services & Support, case closed to either adoption or permanent guardianship after turning 14.


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Permanency for Children HB 1083


§39.801 Procedures & Service of Process - TPR



- Eliminates requirement to serve process on parents who appear at the TPR Advisory Hearing by any means - including audio/video.


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Permanency for Children HB 1083

§39.812(4) Postdisposition Relief, Petition for Adoption §63.062 Consent to Adoption



- Eliminates administrative review of DCF's unreasonable denial of consent via Chapter 120 hearings.
- Requires dependency court to review DCF's denial of an application to adopt a child.
- Prevents filing of a petition to adopt unless DCF consents or has an order finding DCF unreasonably denied the application to adopt

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Permanency for Children HB 1083

§39.812(4) Postdisposition Relief, Petition for Adoption

- **Process**

- DCF provides written notice to the denied Applicant within 10 business days of the decision
- Applicant has 30 business days to file a motion to review the denial
- Court holds hearing within 30 business days of filing
- Court must enter order within 15 business days of the hearing

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Permanency for Children HB 1083

§39.812(4) Postdisposition Relief, Petition for Adoption

- **Standing**

- Denied applicant
 - Has standing to make make motion and present evidence
 - Standing ends upon the entry of the order
- Approved applicant
 - May participate in the hearing as a participant per §39.01
 - May be heard without filing motion to intervene

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Permanency for Children HB 1083

§39.812(4) Postdisposition Relief, Petition for Adoption

- Standard of Review – Abuse of Discretion
- Issue under review is limited to whether:
 - The department’s denial of the application is consistent with its policies
 - If the department made the decision in an expeditious manner.



Examine whether the policy DCF applied is valid? See e.g. *K.R. v. DCF*, DOAH 23-4842RX, 4/12/24. DCF kinship rule, 65C-16.002 found invalid.

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Permanency for Children HB 1083

§39.812(4) Postdisposition Relief, Petition for Adoption

- Discovery
 - Not specified in statute, but due process compels it
 - Adoption Application Review Committee (AARC)
 - Records gathered in review
 - Report and Recommendations generated
 - Communications among members and with DCF
 - FSFN & Court Records

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Permanency for Children HB 1083

§39.812(4) Postdisposition Relief, Petition for Adoption

- If Court denies the Motion to Review
 - Child residing with applicant can be moved §39.812(5)
- If court finds in favor of denied applicant
 - Issues an order to authorize the applicant to file a petition to adopt.
 - Competing petitions to adopt are before the court for best interest determination.

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Permanency for Children HB 1083

§63.093 Adoption from Child Welfare System



- Permits an updated Placement or Licensing Home Study to serve as the Adoption Home Study.
- Requires DCF to eliminate duplicative practices and delays for adoption applicants who are members of uniformed military.



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Permanency for Children HB 1083

§63.097 Adoption Fees, §63.135 Affidavit of Expenses,

- Requires court order (not approval) if fees charged exceed amount permitted by statute.
 - Order must include written determination of reasonableness §63.135
- Disallows fees when there is no receipt
- Requires adoption entities to file quarterly reports with DCF
 - Demographics of children adopted
 - Fees, costs, and expenses associated with each adoption
- Requires DCF to report info for each entity on its website.

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Permanency for Children HB 1083

§63.212 Prohibited Acts - Adoption

- Extends the prohibition on adoption advertising (by anyone other than an adoption entity) all forms of media.
- Requires those who are permitted to place ads in all those forms of media to include their license information.

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Permanency for Children HB 1083

§409.1664 – Adoption Benefits

- Extends state employee adoption benefits to health care practitioners and tax collector employees.
- Increases benefits from \$10,000 to \$25,000 for difficult to place children and from \$5,000 to \$10,000 for all other children

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Permanency for Children HB 1083

§409.16y – Adoption Exchange



- Makes the photo listing of children inaccessible to the public – open only to those who have completed or in the process of completing home study
- Children 12 and older can request a specific photo be used and must be consulted in the development of the listing

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Surrendered Infants HB 775

§383.50 Surrendered Infants [Unless vetoed, Effective 7/1/24]

- Increases age of infant that a parent can surrender from 7 days to 30 days.
- Permits parent to leave infant at the hospital after giving notice
- Permits parent to call 911 to to meet an EMT to surrender infant
- Deletes the term "newborn" from relevant statutes.

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Dependent Children SB 1224

[Effective July 1, 2024]



Supportive Adults for Transitioning Teens, Guardian ad Litem & Attorney ad Litem,
Domestic Violence Lethality Assessments.

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Dependent Children SB 1224

§741.29 Domestic Violence Investigations

- Requires law enforcement to administer a lethality assessment if an allegation is against an intimate partner.
- Requires FDLE to confer with specified entities to develop policies, procedures and training to implement the assessments
- Requires training for law enforcement officers
- Specifies questions to include
- Requires referral to domestic violence center

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Dependent Children SB 1224

Foster Prosperity Grants. §1009.898 (New Statute)



- Creates grants to assist youth and young adults aging out of foster care to provide for
 - Financial literacy instruction
 - Test Preparation for CLT, SAT, ACT prep
 - Trade careers or apprenticeships
- Youth remains eligible for 1 year after reunification

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Dependent Children SB 1224

Connection with Supportive Adults

- Adds connection to supportive adults as part of the meaning of permanency
 - Purpose of Chapter 39, §39.001(1)(j)
 - Goals for Dependent children. §39.4085(1)(m)
- Case Plan Tasks must include activities to develop relationships, coping skills, and emotional well-being. §39.6012(3)



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Dependent Children SB 1224

New Statute §39.6036 Connection with Supportive Adults

For Children Transitioning to Adulthood.

- Intent for SGALO to help children connect with supportive adults with the hope of creating relationships that last.
- SGALO will work with the child to identify a supportive adult to enter into a formal agreement for ongoing relationship.
 - Relationship will be documented in court file
 - SGALO will work with Office of Continuing care to find an adult

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Dependent Children SB 1224

Connection with Supportive Adults -other statutes

- APPLA – GAL advises court if child is connected to supportive adult, has entered into an agreement, and document it in the file. §39.6241
- Judicial Reviews for young adults
 - Court must inquire about the relationship with the supportive adult. §39.701(4)2
- Office of Continuing Care to help SGALO identify supportive adults. §414.56

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Dependent Children SB 1224

What's in a Name?



- Guardian ad Litem Program is now called the **Statewide Guardian ad Litem Office**.
- Children's Attorneys are now **Attorneys ad Litem** -for the most part - §39.01305 is unchanged.
- "If appointed" removed as modifier to guardian ad litem and added as modifier to attorney ad litem.

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Dependent Children SB 1224

Attorney ad Litem Definition §39.01(8)

“Attorney ad litem – means an attorney appointed by the court to represent a child in a dependency case who has an attorney-client relationship with the child under the rules regulating The Florida Bar.”

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Guardian ad Litem Definition



§39.01(32) New


“Guardian ad litem” means a person or an entity that is a fiduciary appointed by the court to represent a child in any civil, criminal, or administrative proceeding to which the child is a party, including, but not limited to, under this chapter, which uses a best interest standard for decisionmaking and advocacy. For purposes of this chapter, the term includes, but is not limited to, the Statewide Guardian ad Litem Office, which includes all circuit guardian ad litem offices and the duly certified volunteers, staff, and attorneys assigned by the Statewide Guardian ad Litem Office to represent children; a court-appointed attorney; or a responsible adult who is appointed by the court. A guardian ad litem is a party to the judicial proceeding as a representative of the child and serves until the jurisdiction of the court over the child terminates or until excused by the court.

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§39.820(1) Current


Guardian ad litem” as referred to in any civil or criminal proceeding includes the following: the Statewide Guardian Ad Litem Office, which includes circuit guardian ad litem programs; a duly certified volunteer, a staff member, a staff attorney, a contract attorney, or a pro bono attorney working on behalf of a guardian ad litem; a court-appointed attorney; or a responsible adult who is appointed by the court to represent the best interests of a child in a proceeding as provided for by law, including, but not limited to, this chapter, who is a party to any judicial proceeding as a representative of the child, and who serves until discharged by the court.

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Dependent Children SB 1224


Guardian ad Litem Appointment Mandatory



- Appointment of GAL is Mandatory for all children.
 - §39.013(11) – At earliest possible time to represent child throughout the proceedings,
 - §39.402(8)(c) - Removes discretion to appoint at Shelter.
 - §39.502(8) with Dependency Petition if not previously appointed
 - §39.822 Appointment of GAL at earliest time


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Dependent Children SB 1224

Guardian ad Litem Ability to Represent outside of Ch. 39



§39.013(11) –

“The guardian ad litem may represent the child in proceedings outside of the dependency case to secure the services and benefits that provide for the care, safety, and protection of the child.”

- Medicaid / APD Fair Hearing, Social Security Appeals, Special Ed Due Process, School Discipline

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Dependent Children SB 1224 Independent Representation

§39.822

- A guardian ad litem is a fiduciary and must provide independent representation of the child using a best interest standard of decisionmaking and advocacy.
 - Independent of DCF



Ascertain the factual basis of the SGALO position when it mirrors DCF's position.

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Guardian ad Litem Responsibilities SB 1224

§39.822(2)(a) New

A guardian ad litem must:

1. Be present at all court hearings unless excused by the court.
2. Investigate issues related to the best interest of the child who is the subject of the appointment, review all disposition recommendations and changes in placement, and, unless excused by the court, file written reports and recommendations in accordance with general law.
3. Represent the child until the court's jurisdiction over the child terminates or until excused by the court.
4. Advocate for the child's participation in the proceedings and to report the child's preferences to the court, to the extent the child has the ability and desire to express his or her preferences.
5. Perform other duties that are consistent with the scope of the appointment.





§39.807(2)(b) Current

The guardian ad litem has the following responsibilities:

1. To investigate the allegations of the petition and any subsequent matters arising in the case and, unless excused by the court, to file a written report. This report must include a statement of the wishes of the child and the recommendations of the guardian ad litem and must be provided to all parties and the court at least 72 hours before the disposition hearing.
2. To be present at all court hearings unless excused by the court.
3. To represent the best interests of the child until the jurisdiction of the court over the child terminates or until excused by the court.

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Dependent Children SB 1224

Access to the Child



§39.822(b) A guardian ad litem shall have immediate and unlimited access to the children he or she represents.

- §39.4085(1)(t) already provides immediate and unlimited access to children for both GALs and Attorneys.
- Rules of Professional Conduct are unchanged with regard to
 - A lawyer's ability to speak with a represented party. Rule 4-4.2
 - The lawyer as witness Rule 4-3.7



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Dependent Children SB 1224


SGALO Oversight & Technical Assistance to GAL & AAL Offices

§39.8296(2)(b) The Statewide Guardian ad Litem Office shall, within available resources, have oversight responsibilities for and provide technical assistance to all guardian ad litem and attorney ad litem offices programs located within the judicial circuits.


- Collect, report, and track reliable & consistent case data
- Review GAL offices in Florida and other states
- Develop GAL statewide performance measures
- Create and Maintain GAL Training Program
 - Deleted language on composition of curriculum team
- Review and maximize funding & review services at local GAL offices
- Look at service delivery to preserve the civil and constitutional rights and other needs of dependent children

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Dependent Children SB 1224



SGALO Oversight & Technical Assistance to GAL & AAL Offices

§39.8296(2)(b)


- SGALO will ensure each child has an attorney assigned to their case – and is represented using multi-disciplinary teams
 - If there is conflict request alternative appointment
- Oversight & Technical Assistance including
 - Attorney ad litem training program, updated regularly
 - Consult and provide TA to chief judges in maintaining registries
 - Assist with recruitment, training and mentoring of AALs





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Supported Decisionmaking HB 73



New Statute §709.2209 [Unless vetoed, effective 7/1/24]

-  Creates Supported Decisionmaking Agreements as a form of Power of Attorney
 - Grants the agent the power to
 - Obtain information (including info protected by HIPAA and FERPA)
 - Communicate on behalf of the principal (communications recognized as being that of the principal)
 - Does NOT authorize the agent to bind or act on behalf of the principal
 - Not a durable power of attorney
-  Raise this option in Regis Little Staffings & Judicial Reviews when decisionmaking assistance is considered. §39.701(3)(c)

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Supported Decisionmaking HB 73

Amends Other Statutes



- §393.12 Guardian Advocate
 - Requires court to consider persons ability to make their own decisions with assistance.
 - Petition has to discuss less restrictive alternatives including supported decisionmaking are are insufficient.
- §744.3201 Petition to Determine Incapacity
 - Must discuss whether person uses assistance to make decisions and why that is insufficient.
- §744.331 Examining Committee
 - May allow a person to assist in communicating with the examinee
- §744.464 Suggestion of Capacity
 - Must address the capability to exercise rights with assistance

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Juvenile Justice HB 1181

[effective 7/1/24]



§985.12 Changes "Civil Citation" to "Prearrest Delinquency" Citation.



§985.125 Eliminates ability of law enforcement and schools to create prearrest diversion. Eliminates ability of schools to create postarrest diversion.

§985.126 Data collection on prearrest and post arrest diversion. DJJ has to report quarterly where citations are used for less than 70% of first time misdemeanor offenses.

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Juvenile Justice HB 1181

Firearm Provisions



§901.15 Permits warrantless arrest for possession of a firearm by a minor

§985.12 Eliminates availability for Citation when offense involves firearm

§985.441(2)

- Permits the court to commit a child with a misdemeanor violation of possession of firearm by a delinquent

§985.601 Firearm Education

- DJJ must establish a class focused on the risk and consequences of youthful firearm offending
- All youth who have been adjudicated or had adjudication withheld for offenses involving use or possession of firearms

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Juvenile Justice HB 1181

§985.25 Detention Intake



- Requires secure detention until a detention hearing for youth on supervised release who is arrested for violating electronic monitoring
- Child on probation for felony firearm offense who is charged with violating probation (but not new law violation) must remain in secure detention for the state attorney to review. Can be held for 21 days, and an additional 21 days if the court finds the totality of the circumstances warrants the extension. Otherwise, can be released with electronic monitoring.
- Court can order secure detention – despite risk assessment if probable cause that child committed specific offense: murder, robbery, carjacking firearm during felony, armed burglary, delinquent in position in firearm, attempt to commit listed offenses.

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Juvenile Justice HB 1181

Secure Detention



§985.26 – secure detention can exceed 21 days per §985.25

§985.25 (1)

- (g) Court can order secure detention – despite risk assessment if probable cause that child committed specific offense: murder, robbery, carjacking firearm during felony, armed burglary, delinquent in possession of firearm, attempt to commit listed offenses.
- (h) Youth is presumptive a risk and danger, court can release with order finding they are not
 - Order based on clear and convincing evidence. Must include electronic monitoring
 - If no adjudicatory hearing within 60 days of secure detention, court must prioritize case and hold a review each 7 day period until hearing or release with monitoring
 - If released, court must notify law enforcement

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Juvenile Justice HB 1181

§985.433 Disposition Hearings



- Youth adjudicated and committed on to DJJ on firearm offenses must be put on conditional release for a year following their release from commitment – must include electronic monitoring for 6 months
- Youth not committed to residential must
 - Serve 30 days in secure detention (w/credit for time served)
 - Perform 100 hours of community service or paid work
 - Placed on probation for at least 1 year, including electronic monitoring

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Juvenile Justice HB 1181

§985.438 Graduated Response Matrix



- Requires DJJ to create the matrix – based on principle that sanctions should reflect seriousness of the violation, immediate accountability, needs and risks of the child, age and maturity level.
- Sanctions shall include
 - Increased Contacts Additional Evaluations
 - Increased Drug tests Electronic Monitoring
 - Curfew reductions
 - Increased Community Service

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Juvenile Justice HB 1181

§985.439 Violation of Probation



Requires the state attorney to either file a violation of probation within 5 days of receiving notice,

or

Notify the court and DJJ why they are not filing

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Juvenile Justice HB 1181

§985.455(5) Dispositional Issues - Driver's License



When revocation or suspension of driver's license is part of the disposition, the court can order that youth be issued a license with restricted ability to drive for business or employment.

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Juvenile Justice HB 1181

§985.46 Conditional Release



§985.46(5) Conditional Release Supervision must include

- Curfew
- Prohibition on contact with victims, co-defendants, gang members
- Prohibition on use of controlled substances
- Prohibition on possession of firearms

§985.46(6)

- Violation results in assessment on graduated response matrix 985.438
- Youth who fails to move into compliance will be recommitted to residential facility

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Juvenile Justice HB 1181

§985.711 Contraband in JJ Detention & Commitment Programs



- Items added to the Contraband list
 - Currency or coins
 - Cigarettes & tobacco products
- Authorizes use of dogs to locate and seize contraband
- Makes all violations a second degree felony
 - Previously some items were third degree and others were misdemeanors

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Juvenile Justice HB 1181

§1002.221 FERPA



Revises Florida's implementation of FERPA (Family Educational Rights and Privacy Act) and authorizes use of education records in Juvenile Justice proceedings under chapters 984, 985.

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Online Access to Harmful Materials

HB 3 §501.1736(1)(e) Who it Applies to.



- Applies to Social Media Platforms that attract users under 16 that spend 2 or more hours online and has addictive features.
 - Attracts users under 16 means 10% or more of users
 - Addictive Features
 - Infinite scrolling
 - Continuously loading content or seamless content
 - Push notifications
 - Personal interactive metrics (clicks to show like or repost)
 - Auto-play video
 - Live stream
- Does not apply to services or websites whose exclusive function is to facilitate communications between sender and recipients

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Online Access to Harmful Materials

HB 3 §501.1736(2-4) Account Limitations



- Under 14
 - Prohibit minor from opening an account
 - Terminate existing accounts
 - Permanently delete all personal information for terminated accounts, unless required by law to maintain
- 14 & 15
 - Require parental consent to open an account
 - Terminate existing accounts unless a parent consents
 - Permanently delete all personal information for terminated accounts, unless required by law to maintain
 - BUT if a court enjoins those provisions, severs them and reverts to prohibition.
- Under 16
 - Account holder, parent/guardian must be able to request to terminate account

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Online Access to Harmful Materials

HB 3 §501.1736(5) Enforcement



- Knowing or reckless violations of account holder provisions constitutes deceptive and unfair trade practices.
 - Remedies include civil penalties up to \$50,000 per violation
 - Consistent pattern of that conduct can give rise to punitive damages
- Civil claims for violations on behalf of a minor can result in \$10,000 award.
- Gives the Department of Law Enforcement subpoena power

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Employment & Curfew of Minors

HB 49 Amends §450.081



- 15 and younger
 - Can work up to 40 hours a week when school is not in session, 15 when it is
 - Can work 6 consecutive days (previously applied to 17 and young*)
 - Can work no more than 4 hours without 30 min. break*
- 16 & 17
 - Can work more than 8 hours a day on holidays and Sundays
 - Can work up to 30 hours a week when school is in session (limit is waivable by parent or school superintendent) – No limit when school is not in session
 - May not work during school hours unless enrolled in career education
 - If working 8 hours or longer must get at least 30 minute break after 4 hours.

*Provisions previously applied to youth 17 and younger

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Employment & Curfew of Minors HB 49



- Restrictions don't apply to
 - 16 & 17 year olds with h.s. diploma or GED
 - Minors with exemption from compulsory school attendance
 - School superintendent issues hardship waiver
 - Home school or virtual school educated students
 - Employed in domestic service or employed by parents

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Interception of Communications HB 1281 §934.03(2)



- Parent/Guardian of child can intercept and record communication with the child, if
 - They have reasonable grounds to believe the recording will capture a statement that the other party
 - Intends to commit, has or is committing unlawful sexual act or unlawful physical force or violence against the child.
- If the recording captures such a statement
 - it must be provided to law enforcement
 - It may be used for the purpose of "evidencing the intent to commit or the commission of a crime.
 - May not be shared with anyone else.

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What Failed

- Child Welfare
- Grandparents/Relatives
- Trafficking
- Postsecondary Education
- Mental Health
- Juvenile Justice
- Protection of Children



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Child Welfare Bills

- **Grounds for TPR – HB 1463, SB 1497**
 - Eliminate use of medical marijuana by parent or child as basis for TPR, or change of custody or visitation.
- **Child Protective Investigations – HB 1663, SB 1722**
 - Prohibit child protective investigations on religious/ideological beliefs.
 - Define harm to not include raising child consistent with biological sex
 - Require CPI to advise parents of 4th Amendment Rights
- **Child Protective Teams – SB 214, HB 555**
 - Adds cars seat and unattended in vehicle to CPT referral
- **Placement of Surrendered Newborns– SB 306, HB 327**
 - Require CBC to place surrendered newborns

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Grandparents/Relatives

- **Guardianship – Karilyn’s Law – SB 48, HB 887**
 - Require court to order visitation with family members when the guardian of minor is established
- **Grandparent Visitation – HB 859, SB 956**
 - Require petition for visitation to assert parent is deceased, missing or in persistent vegetative state.
 - Eliminate requirement for allegation of parental unfitness or significant harm to child

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Trafficking

- **Human Trafficking. SB 374**
 - Expand definition of coercion, expand restitution, require state attorneys to have pro-prosecution policies
- **Trafficking expunction SB 1734, SB 1736**
 - Expands documentation that can prove trafficking
 - Make expunction records exempt from public review
- **Trafficking Employment HB 1379, SB 1690**
 - Prevents youth under 21 from working in Adult Entertainment

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Postsecondary Education

- **Postsecondary Education of Students who are Homeless, HB 1067, 1308**
 - College support for homeless and former foster youth – housing priority and scholarships

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Mental Health

- **Mental Health HB 1309, SB 1394** -Require DCF & Managing entities to create community mobile support teams to support children who have been subject to Baker Act.
- **Mental Health Education & Training SB 1334, HB 1357** - Require all people working with youth receive education and training on the signs and symptoms of mental health issues and how to provide support

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Juvenile Justice

- **Expunction of Criminal History Records** SB 54, HB 97- Permit the expunction of an adult charge when there was prior expunction on a juvenile charge.
- **Prosecuting Children as Adults** SB 1080, HB 969 -Require due process evidentiary hearing and court order to prosecute a child as an adult. Preclude children from being held in adult jail prior to hearing. Authorize juvenile penalties.

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Protect Children

- **Caregiving Youth** SB 152, HB 323 - Create a task force to look at youth who are caregivers for other people in their home with an eye to seeing how school districts can support those children.
- **Protection of Minors on Social Media Platforms** HB 207, SB 454 - Require social media platforms to create content moderation strategies to protect children and conduct real-time monitoring.
- **Wireless Provider – Automatic Location ID Info** HB 251, SB 740 Permit parents and legal custodians to access the automatic location information in the child's cell phone in the event of an emergency.

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Protect Children

- **Sheltering or Aiding Unmarried Minors** SB 450, HB 875 - Create a defense when there reasonable cause to believe the action was necessary to preserve the minor from danger to his welfare.
- **Protect our Children Act** HB 1129, SB 1196 - Numerous provisions to protect children from on-line and in person harm.

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Federal Rules



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Foster Care Legal Representation

Issued 5/10/24, Effective 7/9/24

45 Code of Federal Regulations Part 1356

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Overarching Goal of the Rule



Access to independent legal representation can help stabilize families, improve safety, and reduce the need for more formal child welfare system involvement, including foster care.

For families with children that have been placed in foster care, independent legal representation can expedite reunification and improve permanency or help provide access to needed supports for youth transitioning out of the child welfare system.

- Includes detailed discussion of importance of legal representation

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IV-E Reimbursement for Legal Representation

- DCF-CLS has been eligible for federal financial participation (reimbursement) for long time. But no reimbursement for counsel provided to other parties.
- 2019 ACF revised policy to allow DCF to claim reimbursement for administrative costs for legal representation of children and parents.
 - Did it via change to the Child Welfare Policy Manual – have made some subsequent updates
 - This is the first formal rule promulgated to address it
- DCF receives \$.50 for every dollar spent on representation, passes along to the funders of representation

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1356.60 (c)(4)ii – Counsel for what parties are covered?

Independent legal representation by an attorney for

- Child in title IV–E foster care,
- Child who is a candidate for title IV–E foster care,
 - Different definition than candidate for IV-E prevention services
 - Not just subject of abuse report
 - DCF is involved to remove, or make reasonable efforts to prevent removal
- Parent(s) of such children
- The relative caregiver(s) of such children, and
- The Indian custodian(s) of such children

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1356.60 (c)(4)ii – What Proceedings

- Foster care and
- “Other civil legal proceedings” as necessary to carry out the requirements in the agency’s title IV–E foster care plan
 - Immigration?
 - No for as the child must be a citizen or qualified immigrant to be eligible for IV-E.
 - Yes, for parent, if needed to carry out the requirements in the agency’s title IV–E foster care plan in relation to a IV–E eligible child.
 - Public Benefits – yes to prevent removal or fulfill case plan
 - Housing – eviction or other action to stabilize housing
 - Family? –custody, DV injunction,

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What’s Expenses are Covered?

- Cost of Attorney providing independent legal representation
 - Includes “facilitating, arranging, brokering, advocating, or otherwise linking clients with providers and services as identified in the child’s case plan.”
- Cost of professionals that support attorneys
 - Paralegals, investigators, peer partners, social workers, other professionals.
 - See CWPM 8.1B #32, and the preamble of the September 2023 NPRM, (Child Welfare Practice Manual, Notice of Proposed Rule Making)

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What is Independent Legal Representation by an Attorney

- To clarify, for purposes of the final rule, the term “independent” conveys that representation is not subject to control or influence by other parties, interested persons, nor the title IV–E agency.
- NPRM also suggested (not required) expectations that the agency ensure that
 - the attorney providing legal representation does not have any concurrent conflicts of interest
 - there is no interference with the lawyer’s professional judgement or relationship with the client.
 - an attorney does not accept compensation for representing a client from someone other than the client, unless the client gives informed consent.

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Designated Placement Requirements for LGBTQI+ Children Issued 4/30/24, Effective 10/1/26

45 Code of Federal Regulations Part 1355



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Overarching Goal of the Rule

- This final rule requires agencies to ensure that placements for all children are free from harassment, mistreatment, and abuse.
- The final rule requires that title IV-E and IV-B agencies ensure a Designated Placement is available for all children who identify as LGBTQI+ and specifies the Designated Placement requirements.

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**LGBTQI+
is an
Umbrella
Term for**

Children who identify as lesbian, gay, bisexual, transgender, queer or questioning, intersex, as well as children who are non-binary, Two-Spirit, or have non-conforming gender identity or expression

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§ 1355.22(b) Designated Placement Requirement

DCF/CBC Lead Agencies and subcontractors must:

- Provide Safe & Appropriate Placements for all Children in Care
 - Free from harassment, maltreatment or abuse
- Provide Designated Placements for LGBTQI+ children who request or would benefit from placement
- No provider is required to become a Designated Placement

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§ 1355.22(b)(1) Designated Placement Requirements

- Commit to establish environment that supports LGBTQI+ status or identity
- Trained with knowledge & skills to provide for needs of the child's self-identified sexual orientation, gender identity and gender expression (SOGIE)
 - Reflect evidence, studies and research on impact of rejection, discrimination and stigma on safety and well being
 - Provide providers with info on professional standards and recommended practices
- Facilitate child's access to age/developmentally appropriate resources, services and activities that support health and well being

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§ 1355.22(b)(2) Notice & Request for Designated Placement

- DCF/CBC must provide a process for child to request designated placement or request services to help their current placement become one.
 - Process must safeguard privacy and confidentiality
- Components
 - Notice of availability of placement and ability to request services
 - Provided to all children 14 & older, and those under 14 who
 - were removed from home due to family conflict on SOGIE or
 - have disclosed LGBTQI+ status
 - Provided verbally and in writing in developmentally appropriate manner
 - Inform the child about protections against retaliation

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§ 1355.22(b)(3) Placement & Services Decisions

DCF/CBC lead agency has to



- Give "Substantial weight to the child's expressed concerns or requests when determining the child's best interests."
- Consider whether additional services and training would allow current provider to meet conditions for designated placement (e.g. to promote placement stability.)

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§ 1355.22(c) Process for Reporting Concerns about Placement & Retaliation

DCF/CBC lead agency has to



- Create a process for reporting concerns about placement not meeting requirements and to report retaliation
 - Safeguard child's privacy & confidentiality
- Agency must respond promptly – consistent with time frames for investigation abuse allegations

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§ 1355.22(d) Retaliation

- DCF/CBC lead agency must create procedures to prevent retaliation
 - Based on real or perceived LGBTQI+ status or identity
 - Disclosure of status or identity
 - Request or report related to placement or services

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§ 1355.22(d) Retaliation

- Retaliation includes
 - Harassment, mistreatment, or abuse
 - Attempt to undermine, suppress or change SOGIE through conversion therapy
 - Unwanted placement changes or restricting access to peers, siblings, family members, or age/ developmentally appropriate materials and resources
 - Disclosing child's LGBTQI+ status to cause harm or risk privacy
 - Use info on LGBTQI+ status to initiate or sustain a CPI investigation or to law enforcement
 - Act against current or potential caregivers because they support a child's LGBTQI+ status

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§ 1355.22(e) Access to Supportive and Age/Developmentally Appropriate Services

- DCF/CBC lead agency must ensure that LGBTQI+ youth have access to services that support their SOGIE, including clinically appropriate mental and behavioral health Supports

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§ 1355.22(f) Placement



- DCF/CBC lead agency must offer the child a placement consistent with their gender identity.
- They must consult with the child to provide an opportunity to voice any concerns about the placement.

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§ 1355.22(h) Training

DCF/CBC lead agency must ensure

- That placement staff are trained to implement the law, and have the knowledge and skills to serve LGBGQI+ kids
- That contractors who have placement responsibility are informed of the requirements of the rule, including retaliation
- That placement providers are informed of the requirements, including non-discrimination

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§ 1355.22(i) Religious Freedom

- The rule is not required to be applied in away that would violate religious freedom, conscience and free speech.

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Parents & Children
with Disabilities:
45 Code of Federal
Regulations Part 84
Issued 5/09/24
Effective 7/8/24

Implementation of Section
504 of the Rehabilitation Act,
29 U.S.C §794

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Children, parents, caregivers, foster parents & prospective parents in child welfare. §84.60 (2)

(a) Discriminatory actions prohibited.

(1) No qualified individual with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any child welfare program or activity that receives Federal financial assistance.

- Nondiscrimination provisions apply to protect all individuals with disabilities seeking access to services
 - Children, bio parents, adoptive parents, caregivers, guardians, foster parents, prospective parents
- Applies to all recipient of federal financial assistance directly, or through contracts, agreements or other arrangements.
 - DCF, CBC lead agencies and all subcontractors

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Prohibited Discrimination §84.60 (2)


(i) Decisions based on speculation, stereotypes, or generalizations that a parent, caregiver, foster parent, or prospective parent, because of a disability, cannot safely care for a child; and

(ii) Decisions based on speculation, stereotypes, or generalizations about a child with a disability.

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§84.60 (b) It is Discrimination to:

- Deny a qualified parent with a disability custody or control of, or visitation to a child
- Deny a qualified parent with disability the opportunity to benefit from services provided by the agency, including but not limited to
 - Family preservation and reunification services equal to persons without disabilities
- Terminate parental rights or legal guardianship of qualified individual with disability
- Deny a qualified caregiver, foster parent, companion or prospective parent with a disability the opportunity to participate or benefit from child welfare programs or activities
- Require children with disabilities to live outside their family home in order to get necessary services. 

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§84.60 (c) Parenting Evaluations; DCF/CBC Must

- Establish procedures to refer parents to qualified professionals to evaluate people, who because of their disability, need adapted services or reasonable accommodations
- Ensure tests, assessments, and other evaluation tools and materials used to assess or evaluate parenting ability are
 - Based in evidence or research
 - Conducted by qualified professional
 - Tailored to assess actual parenting ability and specific areas of disability-related needs.
 - Shall not be based on a single IQ or measure of disability – rather than parenting ability.

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§84.60 (c) Individualized Assessment

Assessments of parents or children must be individualized and based on best available objective evidence.

Relevant Comments:

- Decisions about whether a caregiver can offer safety and well-being must be made on actual facts about the person, not stereotypes about disabilities.
- Natural and paid supports as should be considered as reasonable modifications that may be used in meeting evaluation criteria.

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Information in Response to Comments

- Youth (18-21) are covered despite the use of the term children.
- Services include: parenting classes, written materials, forms and assessments
- Discriminating against people in recovery, even if using medication for opioid use disorder (MOUD) is prohibited. But people who are engaged in current illegal drug use are not.

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Safety of child (comment)

- Rule recognizes the entity has to determine whether person, because of disability cannot safely care for a child
 - Includes direct threat
 - In determining whether an individual poses a threat, a recipient must make an individualized assessment based on reasonable judgment from current medical knowledge or the best available objective evidence to ascertain the nature, duration, and severity of the risk to the child; the probability that the potential injury to the child will occur; and whether reasonable modifications of policies, practices, or procedures will mitigate the risk. Where a parent with a disability poses a significant risk to the child's health and safety, recipients would be permitted to delay or deny reunification or delay or deny visitation with a parent.

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Most Integrated Setting

- We reiterate that all children with disabilities in foster care are entitled to receive services in the most integrated setting appropriate to their needs, and congregate care is virtually never the most appropriate long-term setting for children.
- The most integrated setting appropriate for children with disabilities is almost always the family home or a family foster care setting. Recipients should consider and facilitate the full range of services and supports a family may be eligible for to keep parents and children together.
- Department's position is that children should not be required to enter or remain in the child welfare system solely to receive disability-related services and supports.

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