

# 2017 Legislative Session

## House Bill 1121

### Job Aid



**OFFICE OF CHILD WELFARE**  

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*This document contains the changes by which House Bill 1121 will impact case work practice related to child safety, permanency, and well-being.*

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## INTRODUCTION

### **HB 1121 Child Welfare**

Bill Sponsor: **Representative Cyndi Stevenson**

Effective Date: July 1, 2017

Chapter 2017-151, Laws of Florida

For additional information on the legislative session, bill actions, and more, please visit the below websites.

Florida House of Representatives: [www.myfloridahouse.gov](http://www.myfloridahouse.gov)

Florida Senate: [www.flsenate.gov](http://www.flsenate.gov)

Online Sunshine: [www.leg.state.fl.us](http://www.leg.state.fl.us)

Florida Department of State, Laws of Florida: <http://laws.flrules.org/node>

Florida Governor Rick Scott: [www.flgov.com](http://www.flgov.com)

**Permanency – ss. 39.01, 39.402, 39.503, 39.504, 39.507, 39.521(1)(a), 39.6221, 39.801, 39.803, 39.806, 39.811, F.S.**

**Issues:**

- In many dependency cases, paternity has not been established at the time the child comes into the court system. Chapter 39 previously did not require a trial court to make paternity determinations at the shelter hearing.
- Florida case law concerning paternity establishes principles based on if there is a legal father, yet Chapter 39 does not include the concept of a legal father.
- Chapter 39's explanation of what constitutes a diligent search did not leverage all resources, particularly the putative father registry.
- Chapter 39 required the Department to attempt to personally serve prospective parents with a termination of parental rights petition, even where paternity was never established and the prospective parent's identity or location was unknown after diligent search, which delayed permanency until personal service could be achieved.
- Chapter 39 permitted dependency proceedings and injunction proceedings regarding the same children to be heard by different judges.
- Case law established that children in certain areas of the state could be adjudicated dependent as to the first parent based upon evidence of a risk of harm, but cannot be adjudicated dependent as to the second parent unless actual harm is proven.
- Chapter 39's requirement that the Department file a predisposition study duplicated the Department's work already being performed to prepare the Family Functioning Assessment (FFA).
- The Fourth District Court of Appeal in T.B. v. Department of Children & Families, 189 So. 3d 150 (Fla. 4th DCA 2015), held that the provisions of s. 61.13001, F.S., which are intended to address parental relocation, apply to permanent guardianship placements. As a result, if a permanent guardian wishes to relocate more than 50 miles from his/her current residence, the guardian must either obtain the parents' agreement to the relocation or file with the circuit court a petition to relocate and potentially present his/her case at a hearing.
- Chapter 39 permitted a parent's rights to be terminated if on three or more occasions the child or another child had been placed in out-of-home care pursuant to Florida law, but did not permit termination based upon the parent's behavior outside of Florida.
- Chapter 39 limited the grounds upon which the Department could terminate the rights of one parent, but not the other, and those grounds did not include where the parent has been designated a sexual predator.

### Changes:

- Expedites permanency for children by requiring the court to inquire about paternity at the shelter hearing, which will enable the Department to identify and locate the father earlier in the legal process.
- Defines legal father.
- More clearly defines diligent search in trying to locate a parent, including a search of the putative father registry.
- Permits the court to proceed without further notice if a diligent search fails to identify and locate a parent or prospective parent.
- Requires a judge who is involved in a pending dependency proceeding to also hear an injunction proceeding regarding the same child.
- Permits a judge who is considering an injunction petition to enter an injunction based on the sworn petition and affidavits if the offender cannot be located after a diligent search. The diligent search affidavit must be filed.
- Permits the trial court at a hearing on a final injunction to hear all relevant evidence, even if it would not be competent at an adjudicatory hearing.
- Permits a court to supplement its adjudication based upon allegations against a later found second parent if that parent abused, abandoned, or neglected the child or engaged in conduct that placed the child at substantial risk of imminent abuse, abandonment, or neglect.
- Provides the court is not required to conduct an evidentiary hearing for the second parent in order to supplement the adjudicatory order, disposition order, or case plan if the requirements of s. 39.506(3) or (5), F.S., are satisfied.
- Modifies s. 39.521(1)(a), F.S., to require the Department to file and serve a Case Plan and Family Functioning Assessment (FFA):
  - Not less than 72 hours before the disposition hearing if the disposition hearing occurs on or after the 60<sup>th</sup> day after the child was placed in out-of-home care.
  - Not less than 72 hours before the Case Plan acceptance hearing if the disposition hearing occurs before the 60<sup>th</sup> day after the child was placed in out-of-home care and a Case Plan has not been submitted or the court does not approve the Case Plan at the disposition hearing. The Case Plan acceptance hearing must then occur within 30 days after the disposition hearing.
- Clarifies that Chapter 39 permanent guardianships are not subject to the requirements of s. 61.13001, F.S.
- Provides judges with discretion to terminate parental rights of a sexual predator without terminating the rights of the other parent.
- Provides the Department discretion to seek termination of parental rights when a child has been placed in out-of-home care in any jurisdiction three or more times.

### **Who This Impacts:**

- Child Protective Investigations, Case Management, Children's Legal Services, and the Judiciary

### **Next Steps:**

- Courts are required to perform paternity inquiries at shelter hearings.
- Child Welfare Professionals must expand their diligent search efforts consistent with the new statutory requirements.
- CLS Attorneys shall seek orders from the court to relieve the Department from further service when a diligent search fails to identify and locate a parent or prospective parent.
- The Department will no longer be submitting Predisposition Studies for the court to use at disposition; instead, the Department must file the Family Functioning Assessment (FFA) and it must include the information outlined in s. 39.521(1)(g)2, F.S.

The following changes are made to align policy to statutory changes and new provisions enacted by the Florida Legislature in 2017.

### **Chapter 4, Completing the Family Functioning Assessment (Engagement Standards for Exploration)** has been revised to:

- Ensure that requirements for the FFA-Ongoing contain sufficient information to replace the Predisposition Study which has been eliminated as a requirement in s. 39.521(1)(g)2, F.S.
- Add new requirements for filing the Family Functioning Assessment with the Case Plan.
- Add new timeframes for submission of Case Plans to the dependency court.
- Modify the chapter title to clarify that this chapter is about completing the FFA-Ongoing.

**Contact:** Stephanie Zimmerman, CLS, [Stephanie.Zimmerman@myflfamilies.com](mailto:Stephanie.Zimmerman@myflfamilies.com), 850-443-6273

## **Permanency Goals – s. 39.621(2), F.S.**

### **Issue:**

- “Maintain and strengthen” as a permanency goal.

### **Changes:**

- Allows the use of “maintain and strengthen” as a permanency goal under the following conditions:
  - a. A child has not been removed and remains in the care of a parent even when adjudication has been withheld.
  - b. A child has been placed with a non-removal parent.
  - c. A child has been removed and subsequently reunified with the removal parent.

### **Who This Impacts:**

- Child Protective Investigations, Case Management, Children’s Legal Services, and the Judiciary

### **Next Steps:**

The following changes are made to align policy to statutory changes and new provisions enacted by the Florida Legislature in 2017.

#### **CFOP 170-9, Family Assessment and Case Planning**

**Chapter 5, Case Planning to Support Family Change** has been revised to:

- Add permanency goal choices (moved from Chapter 4 and aligned with new language).

**Contact:** Atarri Hall, Child Safety Specialist, [Atarri.Hall@myflfamilies.com](mailto:Atarri.Hall@myflfamilies.com), 850-717-4651

## **Procedures and Jurisdiction; Right to Counsel. – s. 39.013(2), F.S.**

### **Issue:**

- Extended jurisdiction for a young adult with a disability.

### **Changes:**

- Language was amended to include the retention of jurisdiction for a child until he/she reaches 22 years of age if the child has a disability.

### **Who This Impacts:**

- Youth in care, Community-Based Care Lead Agencies, Case Management Organizations, Children's Legal Services, and those providing Independent Living Services

### **Next Steps:**

- There should be minimal effect as this language has codified our current practice as referenced in s. 39.6251, F.S., regarding Extended Foster Care.
- No additional steps should be needed.

**Contact:** Brandie McCabe, Independent Living Specialist, [Brandie.McCabe@myflfamilies.com](mailto:Brandie.McCabe@myflfamilies.com), 850-717-4218 Office, 850-491-0204 Mobile



## **Transition Plan, s. 39.6035(4), F.S.**

### **Issue:**

- Transition Plans for 17 year olds.

### **Changes:**

- Transition Plans must be developed and approved by the court before the youth's 18<sup>th</sup> birthday. The plans must be attached to the Case Plan and updated before each judicial review.

### **Who This Impacts:**

- Youth in care, Community-Based Care Lead Agencies, Case Management Organizations, Children's Legal Services, and those providing Independent Living Services

### **Next Steps:**

- Case Managers will need to ensure that Transition Plans are developed for all 17 year olds in care, regardless of their placement and their eligibility for Independent Living Services.
- Community-Based Care Lead Agencies and Case Management Organizations should work together to identify specific staff responsible for coordinating and completing the plan. All staff involved with the youth should be familiar with the requirements of ss. 39.6035 and 39.701, F.S., as they should be willing to participate in the planning process.

The following changes are made to align policy to statutory changes and new provisions enacted by the Florida Legislature in 2017.

### **CFOP 170-9, Family Assessment and Case Planning**

Chapter 5, Case Planning to Support Family Change has been revised to:

- Add the requirement for Transition Plan approval by the court before a youth's 18<sup>th</sup> birthday.

**Contact:** Brandie McCabe, Independent Living Specialist, [Brandie.McCabe@myflfamilies.com](mailto:Brandie.McCabe@myflfamilies.com), 850-717-4218 Office, 850-491-0204 Mobile

## **Safety Plans for the Perpetrator of Domestic Violence – s. 39.301(9)(a)6.a., F.S.**

### **Issue:**

- Section 39.301(9)(a), F.S., contemplated that a Child Protective Investigator shall implement a separate Safety Plan for the perpetrator of domestic violence and shall seek issuance of an injunction authorized by s. 39.504, F.S., if the perpetrator is not the parent, guardian, or legal custodian even if the perpetrator cannot be located to implement the separate Safety Plan.

### **Changes:**

- A Child Protective Investigator shall implement a separate Safety Plan against a perpetrator of domestic violence only if the investigator is able to locate the perpetrator.
- Requires the Child Protective Investigator to use reasonable efforts in trying to locate the perpetrator of domestic violence in developing and implementing a separate Safety Plan.
- Provides a definition of reasonable efforts.
- A Child Protective Investigator does not need to seek an injunction authorized by s.39.504, F.S., if the Department intends to file a shelter petition or dependency petition that will assert allegations against the perpetrator as a parent of a child in the home.

### **Who This Impacts:**

- Child Protective Investigations, Case Management, Children’s Legal Services, and the Judiciary

### **Next Steps:**

The following changes are made to align policy to statutory changes and new provisions enacted by the Florida Legislature in 2017.

#### **CFOP 170-7, Safety Planning and Management**

Chapter 4, Safety Plans When There is Intimate Partner Violence has been revised to:

- Add requirements for conducting a diligent search for a perpetrator of intimate partner violence.
- Add requirements for ending a diligent search when the perpetrator cannot be located.

#### **CFOP 170-1, Child Welfare Practice Model**

Chapter 14, Completing a Diligent Search or Diligent Efforts to Locate has been created to align with current diligent search requirements in s. 39.503, F.S. Chapter 14 replaces HRS Operating Procedure 175-22 published June 14, 1996. The revisions in the policy include the following:

- Updated diligent search requirements to include perpetrators of domestic violence.
- Added hyperlinks to relevant search resources.
- Added hyperlinks to FSFN resources for creating legal documentation in FSFN.
- Added appendices to support the diligent search process.

**Contact:** Atarri Hall, Child Safety Specialist, [Atarri.Hall@myflfamilies.com](mailto:Atarri.Hall@myflfamilies.com), 850-717-4651

## **New Children in Households Involved in the Dependency System – s. 39.301(23), F.S.**

### **Issue:**

- The addition of children to the Family Functioning Assessment. This impacts children who move into the home and children born into the family while under investigation or into the home that is under court jurisdiction.

### **Changes:**

- Requires the Department to add any new children born into a family, or who move into a home under investigation or receiving ongoing services, to be added to the Family Functioning Assessment to ensure an assessment of the child's safety in the home.
- Requires a Case Manager to complete the assessment at least 30 days before a child is expected to be born or move into a home, or within 72 hours of the Department learning of the pregnancy or addition if the child is expected to be born or to move into the home in less than 30 days.
- Requires notice to the court for families under court jurisdiction of the new children within the home. Requires the assessment to be filed with the court.
- Requires that after the child is born or a child moves into the home a Progress Update must be completed and also filed with the court.
- Permits the judiciary to conduct a hearing regarding the new child.

### **Who This Impacts:**

- Child Protective Investigations, Case Management, Children's Legal Services, and the Judiciary

### **Next Steps:**

The following changes are made to align policy to statutory changes and new provisions enacted by the Florida Legislature in 2017.

### **CFOP 170-1, Child Welfare Practice Model**

Chapter 9, Newborns or Other New Children in Households with Active Investigation or Ongoing Services has been revised to:

- Added s. 39.301(23), F.S, requirements for a new child in a home under investigation or ongoing services case and assessing the child's safety.
- Modify timeframes to align with s. 39.701(h)(1), F.S., requirements for completing a pre-birth assessment or a new child assessment.

**Contact:** Atarri Hall, Child Safety Specialist, [Atarri.Hall@myflfamilies.com](mailto:Atarri.Hall@myflfamilies.com), 850-717-4651

## **Substance Exposed Newborn Protection, Conditions for Return, In-Home Safety Plan – s. 39.521(1)(c)1, F.S.**

### **Issue:**

- Establishes requirements for cases with substance exposed newborns and codifies Conditions for Return and the use of In-Home Safety Plans into law.

### **Changes:**

#### **Substance Exposed Newborns**

- Requires a parent to be assessed for substance abuse and complete necessary treatment and services when there is evidence of harm to a child as a result of substance abuse.
- Requires the Department to establish a shared family care residential services pilot program to serve substance-exposed newborns and their families through a contract with a lead agency or a private entity in which an entire family in need is temporarily placed in the home of a family who is trained to mentor and support the biological parents as they develop caring skills and supports necessary for independent living. The pilot program includes an appropriation of \$250,000 nonrecurring general revenue funding.
- Requires the Department to specify services that must be made available to newborns and their families through this pilot program.

#### **Conditions for Return**

- Aligns statute with the current Child Welfare Practice Model, including Conditions for Return and Family Functioning Assessments.
- Changes the requirements of the Predisposition Study to be inclusive of information obtained in the Family Functioning Assessment.
- Authorizes the court to allow a child to remain at home with an In-Home Safety Plan or to be returned home with an In-Home Safety Plan if Conditions for Return have been met.
- Requires the Department to supervise the placement of a child after reunification for at least six months with each parent or legal custodian from whom the child was removed.
- Requires the reasonable preference of the child to be considered in placing a child in out-of-home care when the court deems the child has the capacity to express a preference.

### **Who This Impacts:**

- Child Protective Investigations, Case Management, Children’s Legal Services, and the Judiciary

## **Next Steps:**

The following changes are made to align policy to statutory changes and new provisions enacted by the Florida Legislature in 2017.

### **CFOP 170-7, Safety Planning and Management**

Chapter 7, Implement Reunification and Post-Placement Supervision has been revised to:

- Added s. 39.521(1)(c)1, F.S., for revised requirements for achieving reunification when Conditions for Return have been met and an In-Home Safety Plan can be provided.
- Add language about the reunification not endangering the child's physical, mental, and emotional health.
- Add language about the need to provide six months of post-placement supervision for each of the parents from whom the child was removed.

### **CFOP 170-9, Family Assessment and Case Planning**

Chapter 3, Assessment of Child Functioning has been revised to:

- Add requirements for the comprehensive assessment information to be gathered for a child that needs an out-of-home placement.
- Add requirements for learning about and documenting a child's placement preference.
- Add requirements for conducting a multidisciplinary team staffing to review information known and to choose the most appropriate placement.

Chapter 4, Completing the Family Functioning Assessment (Engagement Standards for Exploration) has been revised to:

- Ensure that requirements for the FFA-Ongoing contain sufficient information to replace the Predisposition Study which has been eliminated as a requirement in s. 39.521(1)(g)2, F.S.
- Add new requirements for filing the Family Functioning Assessment with the Case Plan.
- Add new timeframes for submission of Case Plans to dependency court.
- Modify chapter title to clarify that this chapter is about completing the FFA-Ongoing.

Chapter 5, Case Planning to Support Family Change has been revised to:

- Add permanency goal choices (moved from Chapter 4 and aligned with new language).
- Add the requirement for the Case Plan to include a substance abuse disorder evaluation and participation in services recommended for any parent responsible for substance misuse or a substance exposed newborn.
- Add the requirement for Transition Plan approval by the court before a youth's 18<sup>th</sup> birthday.

**Contact:** Atarri Hall, Child Safety Specialist, [Atarri.Hall@myflfamilies.com](mailto:Atarri.Hall@myflfamilies.com), 850-717-4651

## **Confidential Information Sharing – s. 39.6011, F.S.**

### **Issue:**

- Release of Investigations and Confidentiality of Case Planning Conferences.

### **Changes:**

- Allows participants of an investigation to request a copy of the investigation 60 days after the initial report was made to the Abuse Hotline.
- Amends s. 39.6011, F.S., to require all individuals who participate in a case planning conference maintain the confidentiality of all information shared.

### **Who This impacts:**

- Child Protective Investigations and Case Management

### **New Procedures:**

The following changes are made to align policy to statutory changes and new provisions enacted by the Florida Legislature in 2017.

### **CFOP 170-1, Child Welfare Practice Model**

Chapter 13, Confidentiality of Records has been revised to:

- Align with s. 39.202(2)(d), F.S., which allows parent(s) to request a copy of the investigation of the alleged abuse, neglect, or abandonment 60 days after the initial report was made.
- Require that confidentiality requirements be explained to all participants at a case planning conference.

**Contact:** Atarri Hall, Child Safety Specialist, [Atarri.Hall@myflfamilies.com](mailto:Atarri.Hall@myflfamilies.com), 850-717-4651

## **Background Screening of Employees in Residential Group Care Facilities – s. 39.202(2)(a)6, F.S.**

### **Issue:**

- Establishes additional requirements for Background Screening of Employees in Residential Group Care Facilities

### **Changes:**

- Allows the Department to use confidential information from the Abuse Hotline for employment screening of caregivers in residential group homes.
- Allows for the review of a person employed as a caregiver in a licensed residential group home who is named in any capacity in three or more reports of abuse, neglect, or exploitation within a five-year period for the purpose of employment screening.

### **Who This Impacts:**

- All child-caring agencies licensed by DCF.
- All employees employed as caregivers in a child placing agency licensed by the Department are required to comply with this statute.

### **Next Steps:**

- OCW and DCF background screenings are wrapping up a pilot to conduct these screenings for new employees.
- The Department is developing a process for existing employees.

**Contact:** Xiomara Turner, Statewide Foster Care Licensing Specialist,  
[Xiomara.Turner@myflfamilies.com](mailto:Xiomara.Turner@myflfamilies.com), 850-717-4659 (Office)

## **Assessment and Placement of Dependent Children – s. 39.523, F.S.**

### **Issue:**

- Establishes an assessment process for all children placed in out-of-home care.

### **Changes:**

- Requires a comprehensive placement assessment process to be completed to determine the level of care needed by the child and to match the child with the most appropriate placement.
- Requires the appropriate CBC Lead Agency or subcontractor to coordinate a multi-disciplinary team staffing with all available individuals currently involved with the child (the new language includes a list of possible individuals to be included) to determine the most appropriate, available placement of the child.
- Requires all placement assessments and placement decisions to be documented in the Florida Safe Families Network (FSFN).
- Requires the placement decision for each child to be reviewed as often as necessary to ensure permanency for the child and address special issues.
- Codifies existing Department policy by requiring the Department to collect and post data on its website for out-of-home placements and to update the information on the website January 1 and July 1 of each year.
- Allows the Department to adopt rules to implement this section.
- Makes January 1, 2018, the effective date of this section only.

### **Who This Impacts:**

- The placement of every child in out-of-home care
- The Department, Community-Based Care Lead Agencies, and Case Management Agencies

### **Next Steps:**

- The Department will work in collaboration with the Florida Coalition for Children to develop a plan for training on the new requirements and development of the placement assessment tool and process.

**Contact:** Courtney M. Smith, MSW, Permanency and Well Being Manager,  
[Courtney.Smith@myflfamilies.com](mailto:Courtney.Smith@myflfamilies.com), 850-717-4660 (Office)



## **Relative/Nonrelative Caregiver Program – s. 39.5085, F.S.**

### **Issue:**

- Clarifies eligibility criteria for the Relative and Non-Relative Caregiver Program.

### **Changes:**

- Clarifies that the program will be established, implemented, and operated by rule as deemed necessary by the Department.
- The Department shall determine eligibility for the program.
- Clarifies that a caregiver is not eligible under the relative or non-relative guidelines for the program if the parent or stepparent resides in the home.
- Clarifies that a relative or non-relative will be eligible for payment through this program for the minor parent and minor parent's child if all other eligibility requirements are met.

### **Who This Impacts:**

- The Department, Case Management, Relative and Non-Relative Caregivers

### **Next Steps:**

- The Department will make updates to the Relative and Non-Relative Caregiver CFOP 170-10, Chapter 9, to align with the changes in statute.

**Contact:** Courtney M. Smith, MSW, Permanency and Well Being Manager,  
[Courtney.Smith@myflfamilies.com](mailto:Courtney.Smith@myflfamilies.com), 850-717-4660 (Office)

## **Quality Group Home Accountability System – s. 409.996(22), F.S.**

### **Issue:**

- Establishes a statewide group home accountability system.

### **Changes:**

- Requires the Department in collaboration with the Florida Institute for Child Welfare and other stakeholders. Including CBC Lead Agencies and other service providers, to develop a statewide accountability system for residential group care providers based on measurable quality standards.
- Provides a list of items to be included in the accountability system.
- Requires the Department to submit an annual report on residential group care providers to the Governor, President of the Senate, and Speaker of the House of Representatives on October 1 of each year, with the first report due October 1, 2017.
- Provides rulemaking authority for the Department to administer this subsection.
- Requires the accountability system to be implemented by July 1, 2022.

### **Who This Impacts:**

- All child-caring agencies licensed by DCF, DCF Regional Licensing staff, Community-Based Care Lead Agencies, Case Management Agencies, and the children of Florida

### **Next Steps:**

- OCW, the Florida Institute of Child Welfare, and community stakeholders will form a workgroup to use the existing Group Care Quality Standards Assessment Tool that is currently being field-tested to develop the accountability system.

**Contact:** Xiomara Turner, Statewide Foster Care Licensing Specialist,  
[Xiomara.Turner@myflfamilies.com](mailto:Xiomara.Turner@myflfamilies.com), 850-717-4659 (Office)

## **Unaccompanied Homeless Youth – s. 743.067, F.S.**

### **Issue:**

- A form to certify unaccompanied homeless youth to apply, at no charge, for an identification card issued by the Department of Highway Safety and Motor Vehicles and allows access to health care.

### **Changes:**

- Requires the State Office on Homelessness within the Department to develop a standardized form that must be used to certify qualifying unaccompanied homeless youth.
- A certified unaccompanied homeless youth may use the completed form to apply, at no charge, for an identification card from the Department of Highway Safety and Motor Vehicles.
- A health care provider may accept the written certificate as proof of the minor's status as a certified unaccompanied homeless youth.
- Clarifies eligibility for college and university tuition exemptions.
- Petition the circuit court to have the disabilities of nonage removed under s. 743.015, F.S. The youth shall qualify as a person not required to pay prepay costs and fees as provided in s. 57.081, F.S.

### **Who This Impacts:**

- Certifying individuals include:
  - School district liaisons
  - Director of an emergency shelter program funded by the US HUD, or the director's designee
  - A Continuum of Care Lead agency, or its designee
- Continuum of Care Lead Agencies and the Department of Education can provide this resource.

### **Next Steps:**

- The State Office on Homelessness in conjunction with the Continuum of Care Lead Agency Directors will develop a standardized form that must be used by the entities specified in s. 743.067 (1), F.S., to certify qualifying unaccompanied homeless youth. The front of the form must include the circumstances that qualify the youth; the date the youth was certified; and the name, title, and signature of the certifying individual.
- The form was distributed on August 30, 2017.

**Contact:** Tayler LeMaster, Government Operations Consultant I, [Tayler.Lemaster@myflfamilies.com](mailto:Tayler.Lemaster@myflfamilies.com), 850-717-4592