

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #:	CS/HB 7129	FINAL HOUSE FLOOR ACTION:	
SPONSOR(S):	Health & Human Services Committee; Healthy Families Subcommittee, Perry	110 Y's	6 N's
COMPANION BILLS:	(CS/SB 1682)	GOVERNOR'S ACTION:	Approved

SUMMARY ANALYSIS

CS/HB 7129 passed the House on April 24, 2013 and was amended by the Senate on May 3, 2013. The House concurred with two amendments, refused to concur with one amendment, and passed CS/HB 7129 on May 3, 2013. The bill subsequently passed the Senate on May 3, 2013.

Facilities serving children in a residential capacity are licensed by the Department of Children and Families, registered with the Florida Association of Christian Child Caring Agencies, or registered with the Department of Education as a boarding school and accredited by both an academic and a residential accrediting body. Recent reports cite facilities serving children without a license, registration, or accreditation due to a lack of oversight and accountability.

The bill amends ss. 409.175 and 409.176, F.S., related to boarding schools, residential child caring agencies and family foster homes. The bill makes the following changes:

- Clarifies boarding school accreditation requirements and adds additional academic accrediting sources to the list of choices in statute;
- Clarifies regarding boarding school requirements for registering as a private school and sets a timeframe for applying for accreditation. The bill directs the Department of Education to remove boarding schools who fail to comply with these requirements;
- Requires boarding schools to report to the Department of Children and Families (DCF) on accreditation progress;
- Requires level 2 background screening of boarding school employees or contractors with direct student contact;
- Sets a timeframe of 24 hours for the qualified association under s. 409.176, F.S., to notify DCF when a specified violation relating to harming children occurs;
- Sets a timeframe of 3 days for the qualified association to notify DCF of facilities who are not licensed or properly registered for residential child care; and
- Grants DCF the authority to fine the qualified association for failure to comply with requirements.

The bill also amends s. 39.201, F.S., to eliminate redundant reporting of child abuse incidents to law enforcement and the child abuse hotline.

The bill has a fiscal impact of \$450,000 nonrecurring general revenue funds on state government for Fiscal Year 2013-14: The bill appropriates \$250,000 for A Safe Haven for Newborns and \$200,000 for St. John Bosco Clinic. The bill has a fiscal impact of \$3,000,000 in recurring general revenue funds on state government for Fiscal Year 2013-14: The bill appropriates \$3,000,000 for a rural primary care residency program at Sacred Heart Hospital.

The bill was approved by the Governor on June 14, 2013, ch. 2013-219, L.O.F., and will become effective on July 1, 2013. However, the Governor vetoed lines 159-163 of the bill, [Section 3(1), ch. 2013-219], relating to a \$3,000,000 recurring general revenue appropriation for Sacred Heart Hospital.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h7129z1.HFS

DATE: June 20, 2013

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

Residential Services for Children

Residential facilities serving children are either licensed by the Department of Children and Families (DCF), registered with the Florida Association of Christian Child Caring Agencies (FACCCA), or registered with the Department of Education (DOE) as a boarding school and accredited by both a residential and academic accrediting body. However, a number of facilities operate unregulated. Boarding schools have 3 years to operate unregulated and can be granted an additional 3 years to become accredited, if the boarding school closes and opens under a different name.¹ Similarly, the state has little oversight over FACCCA and facilities registered with FACCCA.² A number of residential facilities including boarding schools and facilities registered with FACCCA have recently come under scrutiny, when news articles reported instances of abuse and limited accountability.³

Boarding Schools

Florida boarding schools are currently described and regulated by a definition under s. 409.175(2)(b), F.S., Boarding schools must be registered with the DOE as a private school and they must be accredited. The registration occurs online and does not require any facility inspections by the Department of Education. An annual online survey (which is the same as the initial registration form) is also required by DOE.⁴

Boarding schools must be accredited by an academic accrediting organization which is either the Florida Council of Independent Schools or the Southern Association of Colleges and Schools, and accredited by a residential accrediting entity which is either the Council on Accreditation, the Commission on Accreditation of Rehabilitation Facilities, or the Coalition for Residential Education.

Boarding schools are required to follow established school schedules, with holiday breaks and summer recesses in accordance with other public and private school programs. The parents of children in boarding schools retain custody and planning and financial responsibility. With the exception of foreign students, children in boarding schools are required to return to their family homes or legal guardians during school breaks and must not be in residence year-round.

A boarding school currently in existence, and a boarding school opening and seeking accreditation, must comply with the accreditation requirements described above within 3 years. Boarding schools must provide proof of accreditation or documentation of the accreditation process upon request. A boarding school that cannot produce the required documentation or that has not registered with the DOE shall be considered to be providing residential group care without a license. DCF can impose administrative sanctions or seek civil remedies for noncompliance with statutory requirements for boarding schools.

¹ S. 409.175, F.S.

² S. 409.176, F.S.

³ The Tampa Bay Times, *In God's Name*, accessible at: <http://tampabay.com/faccca/>.

⁴ S. 1002.42(b), F.S.

Florida law currently requires residential child-caring agencies and family foster homes to be licensed by DCF.⁵ A facility which is a religious organization that does not directly receive state or federal funds or is a family foster home that is associated with such an organization and does not directly receive state or federal funds is exempt from licensure, but must be registered under 409.176, F.S.

These facilities, called Type II facilities, must be registered by a Florida statewide childcare organization which was in existence on January 1, 1984.⁶ The only organization currently used is the Florida Association of Christian Child Caring Agencies (FACCCA).⁷ FACCCA currently registers 22 residential child caring facilities and is headquartered in Lake City.⁸ The standards for registration used by FACCCA are required to be in substantial compliance to similar standards used to license similar child caring agencies. DCF is charged in statute to determine that the standards are in compliance and thereafter receives updates to the standards within 10 days of adoption.⁹

The registered facilities must enter into contracts with parents, guardians or others with legal custody prior to the child entering a facility. The law requires the contracts will:¹⁰

- List basic services and accommodations provided;
- State that the facility is a type II facility;
- Contain the address of the registering association (FACCCA);
- Specify charges; if any,
- Contain a clear statement of disciplinary procedures;
- State a goal to return the child within 1 year of entering the facility; and
- Provide an authorization for the facility administrator to consent to routine and emergency medical care.

FACCCA must notify DCF when there is a violation of requirements in s. 409.176, F.S., which threatens harm to a child.¹¹ DCF is to notify the state attorney when there is a violation of law reported and shall file civil suit when needed to stop the facility from continuing care.¹² DCF also has authority to institute injunctive proceedings in court to enforce requirements of s. 409.176, F.S., or terminate facility operations.¹³ DCF does not have authority to enforce these requirements with fines.

Background Screening

Level 2 background screening includes fingerprinting for statewide criminal history records checks through the Department of Law Enforcement, and national criminal history records checks through the Federal Bureau of Investigation, and may include local criminal records checks through local law enforcement agencies.

Registered Type II facilities are required to be screened in accordance with the requirements for licensed residential child caring agencies pursuant to s. 409.175(2), F.S. This includes all owners, operators, employees, and volunteers working in the agency. Background screening is not specifically required for boarding schools.

Mandatory Reporters of Child Abuse

⁵ S. 409.175, F.S.

⁶ S. 409.176(5)(b), F.S.

⁷ http://www.faccca.com/about_us

⁸ Florida Association of Christian Child Caring Agencies, registered members (on file with Healthy Families committee staff)

⁹ S. 409.176(5)(b), F.S.

¹⁰ S. 409.176(6), F.S.

¹¹ S. 409.176(10)(a), F.S.

¹² S. 409.176(10)(b), F.S.

¹³ S. 409.176(9)(c), F.S.

Section 39.201(1)(a), F.S., requires any person who knows, or has reasonable cause to suspect, that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare to report such knowledge or suspicion to the department in the manner prescribed in subsection. Prior to 2012, there was no statutory obligation for the general public to report abuse by non-parents/custodians. During the 2012 Legislative Session, House Bill 1355 passed, which, amended s. 39.201, F.S., to add additional child abuse reporting requirements.¹⁴ That section requires any person who knows, or has reasonable cause to suspect that a child is abused by a person *other than a parent, legal custodian, caregiver, or other person responsible for the child's welfare* to report such knowledge or suspicion to the DCF abuse hotline. The DCF abuse hotline is required to immediately electronically transfer such reports or calls to the appropriate county sheriff's office.¹⁵ The bill did not create any exceptions to the new reporting requirement.

Shortly after the bill became effective, Hotline staff and law enforcement agencies recognized a redundancy in the newly-created reporting requirements.¹⁶ In instances where a law enforcement officer was the person who initially identified that a child was being abused by someone other than a parent, etc., such officer was required to report his or her knowledge to the Hotline, which was then required to immediately report such information back to the law enforcement agency.¹⁷

Sacred Heart Residency Programs

Sacred Heart Health System (Sacred Heart) has hospitals in Pensacola, South Walton County, and Gulf County. More than 700 primary care and specialty physicians practice at Sacred Heart. The hub of the Health System is a 466-bed acute care facility which includes Sacred Heart Hospital in Pensacola, Sacred Heart Children's Hospital and Sacred Heart Women's Hospital.¹⁸ Sacred Heart Women's Hospital and Sacred Heart Children's Hospital are affiliated with Florida State University College of Medicine in providing two residency programs that train physicians in obstetrics/gynecology and pediatrics. The physicians in these programs are trained and supervised by Florida State University faculty physicians at Sacred Heart.¹⁹ *[Section 3(1), ch. 2013-219, was vetoed by the Governor].*

A Safe Haven for Newborns

A Safe Haven for Newborns (Safe Haven) is a Florida non-profit 501(c) 3 organization dedicated to eliminating infant abandonment in Florida through education, prevention and community involvement. Through "partnering efforts" in all 67 Florida counties, public awareness efforts and the availability of statewide multilingual 24/7 helpline, Safe Haven²⁰ provides confidential one-on-one assistance accessing Safe Haven's statewide referral database. Safe Haven assist pregnant women and mothers as they make their decisions in the best interest of their babies and themselves, whether with counseling, parenting, health-related issues, adoption or confidentially placing their newborn with a "Safe Haven".²¹

¹⁴ Chapter 2012-155, L.O.F.

¹⁵ Section 39.201(2)(b), F.S. (2012).

¹⁶ *Staff Analysis and Economic Impact*, Department of Children and Families. (On file with the Criminal Justice Subcommittee staff).

¹⁷ *Id.*

¹⁸ Sacred Heart Health System, *About Us*, accessible at: <http://www.sacred-heart.org/about/>.

¹⁹ Sacred Heart Health System, *Residency Programs*, accessible at: <http://sacred-heart.org/residencyprograms.asp>.

²⁰ A Safe Haven for Newborns, FAQs, accessible at:

http://www.asafehavenfornewborns.com/index.php?option=com_content&view=article&id=89&Itemid=170#q7.

²¹ A Safe Haven for Newborns, What We Do, accessible at:

http://www.asafehavenfornewborns.com/index.php?option=com_content&view=article&id=467&Itemid=260.

St. John Bosco Clinic

The St. John Bosco Clinic (SJBC) is located in Miami, Florida, and provides free preventive medicine, screenings and primary health care for children and adults. The SJBC also helps patients navigate available health care services in their community. Patients from are seen and stabilized by nurse practitioners or volunteer physicians.

Effect of Proposed Changes

Boarding Schools

The bill clarifies current law to specify that boarding schools must receive an accreditation for academic programs and an accreditation for residential programs. This is not a change to the policy in current law. However, the bill allows a single accreditation that includes both academic and residential components, as an alternative to the two separate accreditations.

The bill also adds additional organizations available for academic accreditation of boarding schools. These include accrediting associations affiliated with the National Council for Private School Accreditation and the Florida Association of Academic Nonpublic Schools.

Currently, boarding schools must register as a school with DOE, but the statute does not require schools to register as a residential school. The registration form that schools must complete for registration includes an option to choose that a school is residential. The bill clarifies that boarding schools must register with DOE as a school which provides residential service for students.

The bill clarifies that boarding schools must achieve accreditation within 3 years of the registration date with DOE. The bill also directs DOE to remove boarding schools from registration and from the DOE website (for private schools) if they:

- Have not achieved the required accreditations within timeframes specified; or
- Have not provided to DCF the required verification that an application for accreditation has been received by the accrediting organization within 270 days of registration with DOE.

The bill specifies that DCF may request proof of accreditation or documentation of the accreditation process. In addition, the bill requires schools which are not yet accredited, to provide an annual report to DCF on the status of required accreditation. The first report is due 12 months after the date of registration with DOE.

The bill also requires background screenings for boarding school employees and contracted personnel with direct student contact. The background screening must use level 2 standards, provided in chapter 435, F.S. The bill allows DCF to consider and grant exemptions from disqualifications from working with children based on certain offenses, as specified in s. 435.07, F.S.

Registration of Residential Child Caring Agencies and Family Foster Homes

The bill adds a timeframe of 24 hours for FACCCA under s. 409.176, F.S., to notify DCF when a specified violation occurs which threatens harm to any child or constitutes an emergency requiring immediate action. There is currently no timeframe for when FACCCA must report these events.

The bill changes the time requirement for a qualified association to notify DCF that a person or facility is caring for children without proper registration or licensure. The time period is changed from 30 days to 3 days.

The bill allows DCF to impose an administrative fine against the qualified association, up to \$250 per violation for failure to comply with the requirements of s. 409.176, F.S.

Mandatory Reporters of Child Abuse

The bill amends s. 39.201, F.S., to eliminate redundant reporting required in statute, by creating the following two exceptions to child abuse reporting requirements:

- An officer or employee of a law enforcement agency is not required to provide notice to the Hotline when the incident under investigation by the agency was originally reported to law enforcement by the Hotline through the electronic transfer of the report or call; and
- The Hotline is not required to electronically transfer calls and reports to the county sheriff's office if the incident of alleged abuse was originally reported to the Hotline by the county sheriff's office or another law enforcement agency.

These exceptions only apply when the information related to the alleged child abuse was provided to the officer or employee of a law enforcement agency or the Hotline employee in the course of such officer or employee's official duties.

Appropriations

The bill provides the following appropriations to the Department of Health from the General Revenue Fund beginning Fiscal Year 2013-14:

- \$3,000,000 recurring, to provide a rural primary care residency program at Sacred Heart Hospital to include family physicians and pediatrics *[vetoed by the Governor]*;
- \$250,000 nonrecurring, for A Safe Haven for Newborns; and
- \$200,000 nonrecurring, for St. John Bosco Clinic.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

The bill has a nonrecurring fiscal impact of \$450,000 on state government for Fiscal Year 2013-14. There was a recurring fiscal impact of \$3,000,000 *[vetoed by the Governor]*.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.