

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1391 Relating to Dependent Children
SPONSOR(S): Adams
TIED BILLS: **IDEN./SIM. BILLS:** SB 1740

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Children's Services (Sub)	5 Y, 0 N	Walsh	Liem
2) Future of Florida's Families			
3) Human Services Appropriations (Sub)			
4) Appropriations			
5)			

SUMMARY ANALYSIS

HB 1391 permits the release of certain confidential information about missing children from the Department of Children and Families' (DCF) child abuse, neglect and abandonment records when to do so will facilitate locating the children. Access to child abuse, neglect and abandonment records is provided to the attorney representing a child in a civil or criminal proceeding and to certain school employees. The existing background screening required of placements for dependent children is repealed and replaced with two new background investigation sections, one for relative and nonrelative caregivers (unlicensed placements) and one for foster parents (licensed placements). New background screening provisions are provided for child-placing agencies, residential child-caring agencies, summer day camps and summer 24 hour camps.

There is no fiscal impact associated with this bill.

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

STORAGE NAME: h1391a.fff.doc
DATE: April 9, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. EFFECT OF PROPOSED CHANGES:

Access to Child Abuse, Neglect, and Abandonment Records

Section 39.202, F.S., provides that all records held by DCF relative to reports of abuse, neglect, or abandonment are confidential and exempt from public disclosure. With the exception of the name of the reporter, these records are permitted to be disclosed only to the entities identified in s. 39.202(2), F.S., within the limitations and conditions specified in statute:

Currently, representatives of the school system are not provided access to information pertaining to children in their schools who have been abused, neglected, or abandoned and are in the dependency system.

Section. 39.202(2)(d), F.S., permits the parents or legal guardians, the child, and their attorneys access to the records of the department. However, the child may have an attorney to represent the child's best interest in a civil proceeding, such as a child custody proceeding, or in a criminal proceeding, such as when criminal charges are filed against the parents for child abuse. It has been reported that the current provision is not clear that the attorney of the child who has access to these records includes not only the attorney representing the child in the dependency proceeding, but the attorney who is representing the child in a civil or criminal proceeding as well.

HB 1391 clarifies that access to records held by the DCF regarding child abuse, neglect, or abandonment applies not only to the attorneys of parents and children in a dependency proceeding, but also the attorney representing the child in a civil or criminal proceeding. In addition, employees or agents of school boards and other public or private educational institutions are provided access to the child abuse records held by the department and are permitted to release information contained in the records to a school employee if determined necessary for the effective provision of education services.

With the disappearance of Rilya Wilson, one issue that received significant attention was the identification and locating of children who are missing from the dependency system. During the fall of 2002, Operation Safekids was established to search for and locate the 393 children who were under the supervision of DCF and whom DCF could not account. This was a collaborative effort between the DCF, the Florida Department of Law Enforcement (FDLE), and the state's local law enforcement agencies. One barrier identified by the agencies to efforts to rapidly utilize law enforcement in locating missing children was the confidentiality provision under ch. 39, F.S. Law enforcement is permitted access to the records of children in the dependency system; however, this section does not permit the re-release of the information to the public to secure the public's assistance in locating the children. Although s. 119.07(7)(a), F.S., allows DCF to seek a court order to release information from the children's records, the procedure is time consuming and cumbersome.

HB 1391 amends s. 39.202, F.S., to permit the release of information in the records of the department if the child is determined to be missing. Specifically, the department is authorized to disclose certain information from the child's records pertaining to the abuse, neglect, or abandonment if the child under investigation or supervision of the department or one of its contracted service providers (i.e., sheriff's offices conducting child protective investigations or community-based lead agencies providing foster care and related services) is determined to be missing and the release of the information will facilitate the locating or promoting the safety of the child. The name and date of birth of the child, a physical description of the child, and a photo of the child may be released. Additional information may be released by the department if the law enforcement agency with primary responsibility for investigating the missing child agrees that such disclosure will facilitate efforts to locate or protect the safety of the child. The law enforcement agency with primary investigative responsibility is authorized to re-release any information provided by the department under the same conditions. Civil and criminal immunity is provided to the department, law enforcement and recipients of the information. The release of the name of reporter is specifically prohibited.

Security Background Investigations

Background screening is required for certain employment and licensure in order to allow the licensing or employing agency to identify those items in an employee's background which would reflect upon the character of the person being hired or licensed. Chapter 435, F.S., sets forth two levels of background screening. Certain employees and applicants for licensure, such as employees in summer day camps,¹ individuals who provide companion services or homemaker services,² and owners and administrators of assisted living facilities,³ are required to meet the requirements of the level I screening standards in s. 435.03, F.S. This screening requires an employment history check and a check of state and local criminal records. Individuals who have been found guilty of, regardless of adjudication, or entered a plea of *nolo contendere* or guilty to any of the following crimes, at any time, are considered disqualified for the position or licensure for which they had applied:⁴

- Abuse, neglect, or exploitation of a vulnerable adult, pursuant to s. 415.111, F.S.;
- Murder, pursuant to s. 782.04, F.S.;
- Manslaughter, aggravated manslaughter of an elderly person or disabled adult, or aggravated manslaughter of a child, pursuant to s. 782.07, F.S.;
- Vehicular homicide, pursuant to s. 782.071, F.S.;
- Killing of an unborn child by injury to the mother, pursuant to s. 782.09, F.S.;
- Assault, if the victim of the offense was a minor, pursuant to s. 784.011, F.S.;
- Aggravated assault, pursuant to s. 784.021, F.S.;
- Battery, if the victim of the offense was a minor, pursuant to s. 784.03, F.S.;
- Aggravated battery, pursuant to s. 784.045, F.S.;
- Kidnapping, pursuant to s. 787.01, F.S.;
- False imprisonment, pursuant to s. 787.02, F.S.;
- Sexual battery, pursuant to former s. 794.011, F.S.;
- Prohibited acts of persons in familial or custodial authority, pursuant to s. 794.041, F.S.;
- Prostitution, pursuant to ch. 796, F.S.;
- Lewd and lascivious behavior, pursuant to s. 798.02, F.S.;
- Lewdness and indecent exposure, pursuant to ch. 800, F.S.;
- Arson, pursuant to s. 806.01, F.S.;
- Theft, robbery, and related crimes, if the offense was a felony, pursuant to ch. 812, F.S.;
- Fraudulent sale of controlled substances, only if the offense was a felony, pursuant to

¹Section 409.175(2)(k), F.S.

²Section 400.509(4), F.S.

³Section 400.4174, F.S.

⁴Section 435.03(2), F.S.

s. 817.563, F.S.;

- Abuse, aggravated abuse, or neglect of an elderly person or disabled adult, pursuant to s. 825.102, F.S.;
- Lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled adult, pursuant to s. 825.1025, F.S.;
- Exploitation of an elderly person or disabled adult, if the offense was a felony, pursuant to s. 825.103, F.S.;
- Incest, pursuant to s. 826.04, F.S.;
- Child abuse, aggravated child abuse, or neglect of a child, pursuant to s. 827.03, F.S.;
- Contributing to the delinquency or dependency of a child, pursuant to s. 827.04, F.S.;
- Negligent treatment of children, pursuant to former s. 827.05, F.S.;
- Sexual performance by a child, pursuant to s. 827.071, F.S.;
- Obscene literature, pursuant to ch. 847, F.S.; and
- Drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor, pursuant to ch. 893, F.S.

A number of employees and applicants for licensure are required to meet the more stringent standards required for a level II background screening provided for in s. 435.04, F.S., such as child-placing agencies and residential child caring agencies,⁵ direct service providers for persons with developmental disabilities,⁶ and applicants for a birth center license.⁷ With a level II screening, juvenile records and federal criminal records are checked through the Federal Bureau of Investigation (FBI), in addition to local and state criminal history checks. Individuals will not have met the level II screening standards if they have been found guilty of, regardless of adjudication, or entered a plea of *nolo contendere* or guilty to any of the crimes provided for by the level I screening, as well as any of the following crimes:

- Battery on a detention or commitment facility staff, pursuant to s. 784.075, F.S.;
- Taking, enticing, or removing a child beyond the state limits with criminal intent pending custody proceedings, pursuant to s. 787.04(2), F.S.;
- Carrying a child beyond the state lines with criminal intent to avoid producing a child at a custody hearing or delivering the child to the designated person, pursuant to s. 787.04(3), F.S.;
- Exhibiting firearms or weapons within 1,000 feet of a school, pursuant to s. 790.115(1), F.S.;
- Possessing an electric weapon or device, destructive device, or other weapon on school property, pursuant to s. 790.115(2)(b), F.S.;
- Resisting arrest with violence, pursuant to 843.01, F.S.;
- Depriving a law enforcement, correctional, or correctional probation officer means of protection or communication, pursuant to s. 843.025, F.S.;
- Aiding in an escape, pursuant to s. 843.12, F.S.;
- Aiding in the escape of juvenile inmates in correctional institutions, pursuant to s. 843.13, F.S.;
- Encouraging or recruiting another to join a criminal gang, pursuant to s. 874.05(1), F.S.;
- Inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm, pursuant to s. 944.35(3), F.S.;
- Harboring, concealing, or aiding an escaped prisoner, pursuant to s. 944.46, F.S.;
- Introduction of contraband into a correctional facility, pursuant to s. 944.47, F.S.;
- Sexual misconduct in juvenile justice programs, pursuant to s. 985.4045, F.S.; and
- Contraband introduced into detention facilities, pursuant to 985.4046, F.S.

Additional offenses are provided for employees of the Department of Juvenile Justice, and an act that constitutes domestic violence, as defined in s. 741.30, F.S., is an identified offense that would disqualify certain employees.

⁵Section 409.175(2)(k), F.S.

⁶Section 393.065(1), F.S.

⁷Section 383.305(7), F.S.

In implementing the screening standards provided for in Chapter 435, F.S., s. 435.06, F.S., provides for the requirements of the employers if an applicant is found not in compliance with the applicable standards of this chapter, including notification requirements, rights to contest the disqualification, the mandate for employers to terminate employment or shift the employee to a position that does not require the screening, and disqualification for refusal to cooperate with the screening. Exemptions from disqualification are set forth in s. 435.07, F.S., and include felonies committed more than 3 years ago, misdemeanors, felonies that are now misdemeanors, acts of delinquency, and acts of domestic violence.

In addition to the level I and II screenings contained in Chapter 435, F.S., a specific section is provided for screening placements for dependent children pursuant to Chapter 39, F.S., which has been interpreted to include screening for foster homes, relative placements, non-relative placements, and, potentially, noncustodial parents to whom a child is released. Section 435.045, F.S., provides that approval for placement of a dependent child will not be granted if there has been a felony conviction for any of the following crimes at any time: child abuse, abandonment, or neglect; a crime against children, including child pornography; and a crime involving violence, including rape, sexual assault, or homicide but excluding physical assault or battery. Approval for placement of a child will not be granted if there was a felony conviction for physical assault, battery, or drug related offenses within the past 5 years. The department is designated as a criminal justice agency for the purpose of accessing the National Crime Information Center information as it pertains to this section and concerning crimes against children. This section specifically authorizes the department to conduct a criminal records check equivalent to the level II criminal records check provided for in s. 435.04(1), F.S., if the department does not utilize its designation as a criminal justice agency for accessing criminal justice information.

A number of problems have been identified with s. 435.045, F.S. The reference to using the level II screening in s. 435.045, F.S., has resulted in department screeners using the offenses in both ss. 435.045 and 435.04, F.S., to disqualify potential placements. The use of both provisions creates conflicts in the time period for which an offense can disqualify a person. Specifically, some of the offenses in s. 435.045, F.S., are lifetime disqualifiers and some disqualify a person for 5 years, which is inconsistent with s. 435.07, F.S. which provides a 3 year disqualification for the offenses in s. 435.04, F.S. Section 435.045, F.S., was set forth to meet federal requirements; however, the ineligibility required by federal regulations based on the age of the offense provides for a 5 year disqualification conflicts with the 3 year disqualification provided for in s. 435.07, F.S. Section 435.045, F.S., was also written to mirror federal requirements⁸ and does not link to specific offenses in Florida Statutes describing the offenses, thereby providing limited guidance in determining exactly what offenses should disqualify an individual.

Sections of chapters 39 and 409, F.S., also provide for background and security screening as it pertains to placements for dependent children, and often these sections provide a different directive than s. 435.045, F.S. Section 39.301(9), F.S., requires a criminal history screening for persons in the home of a child being investigated for child abuse, neglect, or abandonment. Section 39.401, F.S., requires a local and state criminal records check of any placement for shelter care that is not licensed, but no direction is provided as to the offenses that would disqualify a person from providing shelter care. Section 39.521(2), F.S., provides for local and state criminal and juvenile records checks for members of the household who are 12 years of age or older for any out-of-home placement not already licensed. Again, the offenses that would disqualify an individual for placement are not identified. Section 409.175(2), F.S., requires that owners, operators, employees, and volunteers of family foster homes, child-placing agencies or residential child care agencies be screened using the level II standards provided for in Chapter 435, F.S. All employees and volunteers of summer day camps are

⁸42 U.S.C. 671

required to adhere to a level I screening pursuant to Chapter 435, F.S., and home studies of prospective adoptive parents utilize the screening requirements of s. 435.045, F.S.⁹).

HB 1391 repeals s. 435.045, F.S., and replaces this background screening provision with two new background screening sections, one for foster parents and one for relative and non-relative caregivers.

Security Background Investigation for Unlicensed Relative and Nonrelative Caregivers

HB 1391 creates s. 39.0136, F.S., requires that the background screening, renamed security background investigations, be conducted on any unlicensed relative or nonrelative caregiver who is being considered for placement of a child pursuant to Chapter 39, F.S.

Checks are to be performed of state and local criminal records through local law enforcement and FDLE, juvenile records checks through the Department of Juvenile Justice, and a national criminal records checks through the FBI which requires fingerprinting. All individuals in the home over the age of 12 must undergo the background screening, but for children for whom a background screening is conducted, only the state and local records are checked using local law enforcement and FDLE. For placements requiring immediate attention, the requirement for a national criminal records check may be satisfied by conducting a name check through the National Crime Information Center on the condition that the fingerprint information be provided to the FBI within the required timeframe.

Certain felony offenses are identified as disqualifiers for life and others are identified as disqualifiers for 5 years, if an individual is found guilty of, regardless of adjudication, or plead *nolo contendere* or guilty to the offense.

Lifetime disqualifiers:

- Murder, pursuant to s. 782.04, F.S.;
- Manslaughter, aggravated manslaughter of an elderly person or disabled adult, or aggravated manslaughter of a child, pursuant to s. 782.07, F.S.;
- Sexual battery, pursuant to s. 794.011, F.S.;
- Prohibited acts of persons in familial or custodial authority, pursuant to former s. 794.041, F.S.;
- Procuring a person under age 18 for prostitution, pursuant to s. 796.03;
- Lewd and lascivious offenses committed upon or in the presence of persons less than 16, pursuant to s. 800.04, F.S.;
- Child abuse or neglect, pursuant to s. 827.03, F.S.;
- Impregnation of a child less than 16 by a person older than 21, pursuant to s. 827.04(3), F.S.;
- Negligent treatment of children, pursuant to former s. 827.05, F.S.;
- Sexual performance by a child, pursuant to s. 827.071, F.S.;
- Computer pornography, pursuant to s. 847.0135, F.S.;
- Selling or buying of minors, pursuant to s. 847.0145, F.S.;
- Felony domestic violence as defined in s. 741.28, F.S.;
- Aggravated assault, pursuant to s. 784.021, F.S.;
- Aggravated battery, pursuant to s. 784.045, F.S.

Five-year disqualifiers:

- Drug abuse, pursuant to s. 893.13, F.S.
- Unlawful possession of listed chemicals, pursuant to s. 893.149, F.S.
- Perjury, pursuant to Chapter 837, F.S.
- Forgery, pursuant to Chapter 831.01, F.S.

⁹Section 63.092, F.S.

- Public assistance fraud, pursuant to s. 414.39, F. S.

Section 39.0136(6), F.S., requires that all felony offenses revealed in the screening are to be recorded, considered in the assessment to determine the placement of the child, and presented to the court, as are any misdemeanor convictions or delinquency acts identified. For current or former foster children, offenses that would disqualify a foster home from licensure do not result in a disqualification if committed prior to the foster child's 18th birthday.

Protected information, such as that from the FBI and information that has been sealed, is permitted to be shared with the court only through an *in camera* inspection. Relative and nonrelative caregivers are required to notify the department within 5 days of any new household members so that the required background checks can be performed.

Background Screening for Foster Parents

Section 409.017, F.S., is created to provide for the background screening for foster parents and members of the foster home. The provisions of s. 409.017, F.S., basically mirror those set forth in s. 39.0136, F.S., for relative and nonrelative caregivers, with the exception that the background screening is to include any previous licensure, the information from which must be considered in determining the licensing outcome for an applicant. In addition, rescreening is required annually with the application for relicensure of local criminal records and every 5 years for statewide criminal records check.¹⁰

Background and screening requirements in sections of chapters 39 and 409, F.S., pertaining to the placement of dependent children are replaced with the requirement that the background screening as provided in the newly created s. 39.0136, F.S., be met. The background screening requirements of s. 39.0136, F.S., are now required in the following provisions: s. 39.301(9), F.S., for persons in the home of a child being investigated for child abuse, neglect, or abandonment; s. 39.401, F.S., for any placement for shelter care that is not licensed; and s. 39.521(2), F.S., for members of a household for any out-of-home placement not already licensed.

The screening requirements are removed from s. 409.175(2), F.S., for child-placing agencies, residential child caring agencies, and summer day camps and summer 24 hour camps. Two new sections are created to provide for the screening requirements for these two groups of providers. Section 409.177, F.S., is created and requires that the department conduct a level II screening pursuant to s. 435.04, F.S., for personnel of child-placing agencies and residential child-caring agencies, including any persons over the age of 12 years residing in or adjacent to the facility. For children over the age of 12 years, the screening is to include statewide criminal, juvenile, and local law enforcement records checks. Direction is provided to apply ss. 435.06 and 435.07, F.S., for granting exemptions from disqualifying and excluding an individual from licensure as a result of the screening. Section 409.1759, F.S., is created to provide that employees and volunteers of summer day camps and summer 24 hour camps must meet the level 1 screening requirement of s. 435.03, F.S., which is consistent with current law.

Section 63.092, F.S., is amended to replace the background screening requirement of s. 435.045, F.S., which is repealed with this bill with the level I screening requirement of Chapter 435, F.S., for prospective adoptive parents. A second background screening requirement is provided for in s. 39.812, F.S., for prospective adoptive parents of children under Chapter. 39, F.S. that requires the background screening requirements of s. 39.0136, F.S., be met.

Section 63.037, F.S., which provides that adoptions of children whose parents' rights have been terminated pursuant to Chapter 39, F.S., are to be governed by s. 39.812, F.S., and the adoption chapter (Chapter 63, F.S.), identifies the provisions of Chapter 63, F.S., that do not apply to adoptions

¹⁰For foster parents, screening is part of the licensure or relicensure process. Since there is no court review of the criminal background with each placement, as with the relative and non-relative placements, rescreening is required.

of children under Chapter 39, F.S. The bill amends s. 63.037, F.S., to add the background screening of prospective adoptive parents provided for in s. 63.092, F.S., as an exempted provision for adoptions of children under Chapter 39, F.S.

It is reported that federal regulation requires that adoptive parents of children under Chapter 39, F.S., receive a background screening that includes fingerprinting for an FBI check. The current practice has been that a background screening that includes such an FBI check has been conducted on prospective adoptive parents for children under Chapter. 39, F.S., but not other prospective adoptive parents. These amendments distinguish the background screening practice in statute.

The bill provides an effective date of July 1, 2003.

C. SECTION DIRECTORY:

Section 1: Amends s. 39.202, F.S., relating to confidentiality of reports and records in cases of child abuse or neglect; allows access to any attorney representing a child in civil or criminal proceedings; allows access to employees or agents of public and private educational institutions; creates a new subsection (4) relating to release of information about missing dependent children; renumbers subsections.

Section 2: Creates new s. 39.0136, F.S., relating to security background investigations for relative or nonrelative caregivers; establishes who must be investigated; provides requirements; provides disqualifying offenses; requires recording of information; requires information to be presented to court; requires reporting by caregiver.

Section 3: Amends s. 39.301, F.S., relating to initiation of protective investigations; requires that security background check be conducted in order to determine immediate and long-term risk to each child.

Section 4: Amends s. 39.401, F.S., relating to taking a child alleged to be dependent into custody; requires that security background check be conducted prior to placement of a child into other than a licensed shelter.

Section 5: Amends s. 39.521, F.S., relating to disposition hearings; requires that predisposition study provide the court with documented security background investigation information.

Section 6: Amends s. 39.811, F.S., relating to powers of disposition; requires that any person considered for placement must meet the standards set forth in new s. 39.0136, F.S.

Section 7: Amends s. 63.092, F.S., relating to report to the court of intended placement by an adoption entity; requires that a preliminary home study include a Level 1 criminal records check.

Section 8: Creates s. 435.12, F.S., relating to background screening, what covered; requires that background screening consider all offenses committed by an employee, regardless of when those offenses occurred.

Section 9: Creates s. 409.017, F.S., relating to background screening for foster parents; establishes who must be investigated; provides requirements; establishes exemption for disqualification for current or former foster children; provides disqualifying offenses; requires consideration of certain offenses when considering application for license; requires consideration of previous licensing when considering application for license; provides for rescreening; requires reporting by licensee.

Section 10: Amends s. 409.175, F.S., relating to licensure of family foster homes, residential child-caring agencies, and child-placing agencies; deletes sections relating to personnel and screening in favor of new s. 409.177, F.S.

Section 11: Creates s. 409.177, F.S., relating to background screening for personnel of child-placing agencies and residential child-caring agencies providing care for children; requires that Level 2 background screening checks be performed for personnel of child-caring or child-placing agencies, and any person other than a client over the age of 12 residing with the owner or operator of such agencies; limits security background investigation for such child; provides for denial of license; allows department to grant exemptions from disqualification.

Section 12: Creates s. 409.1759, F.S., relating to background screening for summer day camps and summer 24-hour camps; requires Level 1 screening for operators, owners, employees, and volunteers of summer camps; permits volunteer assisting less than 40 hours per month not to be screened.

Section 13: Amends s. 435.07, F.S., relating to exemptions from disqualification; allows licensing agencies to exempt employee felony offenses committed more than 5 years from the date of disqualification.

Section 14: Creates s. 435.13, F.S., relating to rescreening; requires that a screening is valid for 5 years; requires that rescreening must occur following a break in service exceeding 90 days; rescreening not required if employee on certain approved leaves of absence; sets forth requirements for teachers and noninstructional personnel; establishes record retention period.

Section 15: Repeals ss. 409.1757 and 435.045, F.S., relating to requirements for placement of dependent children.

Section 16: Provides an effective date of July 1, 2003.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Foster parent screening should also be entitled "security background investigation," the same title as used for relative and nonrelative caregivers.

Homes which do not currently meet the screening requirements should be addressed by explicitly making the law prospective in application.

The bill should differentiate between placement considerations for parents and other relatives. See *Santosky v. Kramer*, 455 U.S. 745 (1982).

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On April 9, 2003, the Children's Services Subcommittee adopted a strike all amendment to the bill. The amendment made the following substantive changes to the bill:

The amendment permits the release of certain confidential information about missing children from the DCF child abuse, neglect and abandonment records to law enforcement when to do so will facilitate locating the children. It modifies the requirements for filing a missing child report to allow for a report that is not a written notification and to provide that the report be filed in the county or municipality where the child was last seen, even if different from the county where the child resides or has significant contacts.

Access to child abuse, neglect and abandonment records is provided to certain individuals:

- the attorney representing a child in a civil or criminal proceeding
- school principals who are then permitted to release information to school employees as determined necessary for the effective education of the child
- employees and volunteers of certified domestic violence centers under certain circumstances.

The existing background screening required of placements for dependent children is repealed and replaced with two new background investigation sections, one for relative and nonrelative caregivers (unlicensed placements) and one for foster parents (licensed placements). The amendment:

- Lists the felony offenses that would result in a lifetime disqualifier for relative caregivers, non-relative caregivers, and foster parents
- Expands the list of felony offenses that would be 5 year disqualifiers for relative caregivers, non-relative caregivers, and foster parents
- Distinguishes between felony convictions that are mandatory disqualifiers in the background screening and felony convictions that may be considered
- Provides that offenses of current or former foster children committed prior to the age of 18 years will not disqualify a relative or non-relative caregiver from being considered for placement of a child

- Provides that the background screening requirements for relative and non-relative placements do not apply to parents against whom no allegation of abuse, abandonment, or neglect was made
- Provides that the new background screening requirements for relatives and non-relatives apply only to placements made after June 30, 2003.

New background screening provisions are provided for child-placing agencies, residential child-caring agencies, summer day camps and summer 24 hour camps.

Rescreening for foster home relicensure requires that the annual rescreening only include local criminal records check and that a rescreening of statewide criminal records be conducted every 5 years.

With the exception of the rescreening schedule, the new background screening requirements for individuals in foster homes apply to individuals seeking licensure after June 30, 2003. These requirements do not apply to individuals currently licensed for foster care.