

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Children and Families Committee

BILL: SB 1258

INTRODUCER: Senator Hill

SUBJECT: Child Care Facilities

DATE: February 9, 2006

REVISED: 03/08/06

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Sanford	Whiddon	CF	<b>Fav/1 amendment</b>
2.		CJ	
3.		HA	
4.			
5.			
6.			

## Please see last section for Summary of Amendments

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Technical amendments were recommended

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Amendments were recommended

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Significant amendments were recommended

## I. Summary:

The bill requires a full level 2 screening to be conducted annually on child care personnel employed in a licensed child care facility, rather than being limited to an FDLE and local law enforcement re-screening every five years, as is currently required by administrative rule. The bill also creates a requirement for a level 2 re-screening of child care personnel after a break in employment greater than 90 days.

This bill substantially amends section 402.305, F.S.

## II. Present Situation:

### Child Care Licensing Standards

The Department of Children and Families (DCF) is responsible for child care licensing. Section 402.305, F.S., sets forth the minimum standards for licensing of child care facilities. These standards include minimum requirements for child care personnel.

Section 402.302(3), F.S., defines “child care personnel” to include:

- All owners, operators, employees, and volunteers working in a child care facility.  
(Volunteers who assist on an intermittent basis for less than 40 hours per month are not

included in the definition, provided that the volunteer is under the direct and constant supervision of a person who is required to be screened.)

- Any member, over the age of 12 years, of a child care facility operator's family, or person, over the age of 12 years, residing with a child care facility operator if the child care facility is located in or adjacent to the home of the operator or if the family member of, or person residing with, the child care facility operator has any direct contact with the children in the facility during its hours of operation.
- Persons who work in child care programs which provide care for children 15 hours or more each week in public or nonpublic schools, summer day camps, family day care homes, or those programs otherwise exempted under s. 402.316, F.S.

### **Components of Background Screening**

Section 403.305(2)(a), F.S., requires that child care personnel<sup>1</sup> establish good moral character based on background screening using the level 2 standards set forth in s.435.04, F.S.

In completing the background screening required by s. 402.305(2)(a), F.S., DCF requires, at a minimum, the following:

- Fingerprinting,
- Statewide criminal and juvenile records checks through the Florida Department of Law Enforcement,
- Federal criminal records checks through the Federal Bureau of Investigation,
- Local criminal records checks through local law enforcement agencies, and
- An annual Affidavit of Good Moral Character attesting to compliance with the requirements of s. 435.04, F.S.

The background investigations conducted under s. 435.04, F.S., must ensure that the person subject to the background screening has not been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any of the offenses prohibited under s. 435.04, F.S. Under penalty of perjury, all employees in such positions of trust or responsibility shall attest to meeting the requirements for qualifying for employment and agreeing to inform the employer immediately if convicted of any of the disqualifying offenses while employed by the employer.

### **Re-Screening**

Currently, Florida law does not address the frequency of re-screening for child care personnel. Section 65C-22.006(5), F.A.C., however, provides that a background screening conducted for purposes of child care employment is valid for five years, after which a re-screening that includes, at a minimum, a statewide criminal records check through the Florida Department of Law Enforcement and a local criminal records check must be conducted. The same code provision requires that child care personnel be re-screened (using the same level of screening that was required upon initial employment) upon a break in employment that exceeds 90 days except for child care personnel who take a leave of absence (such as maternity leave, extended sick leave, seasonal child care programs).

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<sup>1</sup> Section 402.302(13), F.S., limits the background screening requirements for volunteers to criminal records checks through local law enforcement agencies for current residence and residence immediately prior to employment as a volunteer, if different, and statewide criminal records correspondence checks through the Department of Law Enforcement.

**III. Effect of Proposed Changes:**

The bill will require a full level 2 screening to be conducted annually on child care personnel employed in a licensed child care facility, rather than the FDLE and local law enforcement re-screening every five years currently required. The proposed legislation would also create a statutory requirement for a level 2 re-screening of child care personnel after a break in employment greater than 90 days.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Applicants to be child care personnel currently pay \$32.00 for fingerprinting for the initial screening and an additional \$32.00 every five years for re-screening. This bill will require that the \$32.00 be paid annually rather than every five years. This fee is paid directly to FDLE.

**C. Government Sector Impact:**

The department reports that there are currently 71,600 screening records for child care personnel in the Caretaker Screening Information Center database. The department predicts an indeterminate but substantial fiscal impact associated with increasing the frequency of the background screening from once every five years to annually. This impact is a result of the increase in volume of screenings inherent in multiplying the screenings by a factor of five.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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## **VIII. Summary of Amendments:**

### **Barcode 833957 by Children and Families:**

Provides an exception to the requirement for the rescreening requirement after a 90-day break in service for persons who work in migrant and seasonal farm worker child care facilities

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