

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 7058

INTRODUCER: Appropriations Committee and Education Pre-K - 12 Committee

SUBJECT: Early Childhood Development

DATE: February 17, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Scott</u>	<u>Klebacha</u>	<u>AP</u>	ED Submitted as Committee Bill
	<u>Sikes</u>	<u>Kynoch</u>		Fav/CS

I. Summary:

CS/SB 7058 revises the Early Steps program in the Department of Health (DOH) and revises provisions of the School Readiness program to align to federal requirements in the 2014 reauthorization of the Child Care and Development Block Grant.

The Early Steps program provides screening and early intervention services to parents with infants and toddlers who have or may have a developmental delay. The program is funded with both state and federal funds.

The bill expands the duties of the DOH clearinghouse for information on early intervention services for parents and providers of early intervention services. The bill provides goals for the Early Steps program, defines terms, and assigns duties to the DOH as well as the local Early Steps offices. The bill sets eligibility criteria for the program. The bill requires a statewide plan, performance standards, and an accountability report each year. The bill designates the Florida Interagency Coordinating Council for Infants and Toddlers as the state interagency coordination council required under federal law. The bill provides procedures for the successful transition of children from the Early Steps program to the local school districts. Finally, the bill repeals outdated sections of statute relating to the Early Steps program.

The bill also revises provisions relating to health and safety standards and eligibility for the School Readiness program to align to federal requirements in the 2014 reauthorization of the Child Care and Development Block Grant.

Specifically, the bill:

- Increases health and safety standards.
- Expands requirements for employment history checks and child care personnel background screenings.
- Expands availability of child care information, including inspection and monitoring reports.

- Expands School Readiness provider standards to include preservice and inservice training requirements and appropriate group size and staff-to-child ratios.
- Aligns child eligibility criteria to the federal requirements

According to the DOH, the bill will require expenditures of approximately \$130,988 in general revenue, \$3,999 of which is nonrecurring, in the 2016-2017 fiscal year. The Early Steps program received a recurring appropriation of \$11 million of general revenue in the 2015-2016 fiscal year, which will be adequate to cover those expenditures during Fiscal Year 2016-2017. The DOH also reports that, if the bill's new eligibility criteria are implemented, at least \$1,317,000 in recurring general revenue would be needed. However, the bill directs the DOH to implement the new criteria subject to specific funding provided in the General Appropriations Act.

The bill also increases licensing and inspection requirements related to the School Readiness program. SB 2500, the Senate 2016-2017 General Appropriations Bill, appropriates \$614,755 to the Department of Children and Families for these additional requirements.

The bill provides an effective date of July 1, 2016.

II. Present Situation:

Early Steps Program

Florida's Early Steps program has its foundation in federal law. The Individuals with Disabilities Education Act (IDEA) originally was enacted by Congress in 1975 to help ensure that children with disabilities have the opportunity to receive a free appropriate public education, just like other children. The law has been revised many times. The most recent amendments expanded the program to pre-school children and were passed by Congress in December 2004, with final regulations published in August 2006 (Part B for school-aged children) and in September 2011 (Part C, for babies and toddlers).

The Early Steps program (Part C of the IDEA) provides services to families with infants and toddlers from birth until three years of age who have or are at risk of developmental delays or disabilities.¹ The federal government created grants to assist states in providing early intervention programs under Part C of the IDEA.² The program has no financial eligibility requirements and is an entitlement to any eligible child.³ Florida's Early Steps program is administered by Children's Medical Services within the Department of Health (DOH). The DOH contracts with hospitals and not-for-profit organizations such as Easter Seals across the state for coordination and delivery of services.⁴

States are not required to participate in Early Steps. The federal government encourages states to participate through its grant funding. By accepting a grant, states are required to abide by federal

¹ s. 391.302, F.S.

² 34 *Code of Federal Regulations* Part 303

³ *Id.*

⁴ Office of Program Policy Analysis & Government Accountability. Florida Legislature, Early Steps Has Revised Reimbursement Rates but Needs to Assess Impact of Expanded Outreach on Child Participation, Report No. 08-44, (July 2008) <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/0844rpt.pdf>.

law and regulations for the program. For Fiscal Year 2015-2016, Florida's federal grant award is \$22.6 million.⁵ The 2015-2016 General Appropriations Act provides \$45.2 million general revenue for the program.⁶

The amount of a state's federal grant award is based each year on the number of children in the state's general population under three years of age, based upon United States Census Bureau data.⁷ The amount of the grant is capped annually on that basis, regardless of the number of children receiving services. Federal data indicate that Florida served 1.9 percent of the population of infants and toddlers younger than three years of age in 2012, or 12,036 children.⁸

Federal rules governing early intervention programs for infants and toddlers with disabilities are found in Part 303 of Title 34, Code of Federal Regulations. The rules provide the purpose of the early intervention program, the activities that may be supported, the children that are eligible to be served, the types of services available, the definition of service coordination activities, and use of service coordinators.

Subpart D of Part 303 provides for a statewide system of early intervention services. This system must include a public awareness program; a comprehensive "child find" system that includes referral procedures; and procedures and timelines for comprehensive, multidisciplinary evaluations of children and an identification of family needs. States must also develop policies and procedures for individualized family support plans (IFSP). Early Steps lead agencies must ensure the IFSP is developed and implemented for each eligible child.

Federal law allows for early intervention services for an eligible child and the child's family to begin before the completion of the evaluation and assessment, under certain conditions. While each agency or person involved in the provision of early intervention services is responsible for making good-faith efforts to assist the eligible child in achieving the outcomes in the IFSP, the law states that any agency or person cannot be held accountable if an eligible child does not achieve the growth projected in the child's IFSP.

States must establish qualifications for personnel providing early intervention services to eligible children and families.⁹ States must have standards to ensure that necessary personnel carry out the purposes of the program and are appropriately and adequately prepared and trained.¹⁰ Parents must give written consent before the Early Steps program may evaluate, assess, and provide early intervention services to a child.¹¹ In the event parents do not give consent, reasonable efforts should be made to ensure the parent is aware of the nature of the evaluation,

⁵ Department of Health, presentation to the Senate Appropriations Subcommittee on Health and Human Services, October 7, 2015, available at http://www.flsenate.gov/PublishedContent/Committees/2014-2016/AHS/MeetingRecords/MeetingPacket_3169.pdf (last visited Dec. 11, 2015).

⁶ See Specific Appropriation 530, s. 3, ch. 2015-232, Laws of Florida.

⁷ U.S. Department of Education, Office of Special Education (OSEP), *Grants for Infants and Families, Part C of IDEA, Grants for Infants and Toddlers*, <http://www2.ed.gov/programs/osepeip/index.html> (last visited: Nov. 16, 2015).

⁸ U.S. Department of Education, *36th Annual Report to Congress on the Implementation of the Individuals with Disabilities Education Act, 2014*, pg. 261, <http://www2.ed.gov/about/reports/annual/osep/2014/parts-b-c/36th-idea-arc.pdf> (last visited: Nov. 16, 2015).

⁹ 34 CFR. s. 303.361

¹⁰ *Id.*

¹¹ 34 CFR. s 303.404

assessment, and services available, and understands that without consent, the child will not be able to receive the evaluation, assessment, or services.¹²

Federal regulations require that service providers give written notice to parents before the provider initiates or changes the identification, evaluation, or placement of the child, or provides the appropriate early intervention services to the child and the child's family.¹³ Procedures to resolve disputes through a mediation process, at a minimum, must be available whenever a parent requests a hearing.¹⁴ The mediation process is voluntary, must be conducted by a qualified mediator, and cannot be used to deny or delay a parent's right to a due process hearing.¹⁵ Mediation must be timely scheduled. Any agreement reached by the parties to the dispute must be in writing, and discussions that occur during mediation are confidential and cannot be used as evidence in any subsequent proceeding.¹⁶ The state must bear the cost of the mediation process.¹⁷ During the mediation, the child must continue to receive early intervention services currently being provided.¹⁸ If the complaint involves an application for initial services, the child must receive any services that are not in dispute.¹⁹

State policy must specify which functions and services will be provided at no cost to all parents and which will be subject to a system of payments.²⁰ The inability of parents of an eligible child to pay for services must not result in a denial of services to the child or the child's family.²¹ States may establish a schedule of sliding fees for early intervention services but some functions such as evaluation, assessment, and service coordination are not subject to fees.²²

Funds provided by the federal grant may be used only for early intervention services for an eligible child who is not entitled to these services under any other federal, state, local or private source.²³ Interim payments to avoid delay in providing needed services to an eligible child are allowed but the agency that has ultimate responsibility for the payment must reimburse the program.²⁴

Each State that receives financial assistance for the program must establish a State Interagency Coordinating Council (council). The council must be appointed by the Governor and membership must reasonably represent the population of the state.²⁵ The council is to advise and assist the lead agency in:

- The development and implementation of the policies that constitute the statewide system;

¹² *Id.*

¹³ 34 CFR s. 303.403

¹⁴ 34 CFR s. 303.419

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ 34 CFR s. 303.425

¹⁹ *Id.*

²⁰ 34 CFR s. 303.520

²¹ *Id.*

²² 34 CFR s. 303.521

²³ 34 CFR s.303.527

²⁴ *Id.*

²⁵ 34 CFR s. 303.600

- Achieving the full participation, coordination, and cooperation of all appropriate public agencies in the state; and
- The integration of services for infants and toddlers with disabilities and at-risk toddlers and their families regardless of whether at-risk infants and toddlers are eligible for early intervention services.²⁶

Eligible infants and toddlers are identified through referrals from hospitals, healthcare providers, and childcare staff who may interact on a regular basis with infants and toddlers. Parents may also contact the state's program directly for an evaluation and assessment. Before any evaluation can be conducted, parental consent is required. Evaluations and assessments must be completed within 45 days of the referral.²⁷

Early intervention skills for this population focus on five areas:

- Physical (reaching, rolling, crawling, and walking);
- Cognitive (thinking, learning, and solving problems);
- Communication (talking, listening, and understanding);
- Social/emotional (playing and feeling secure and happy); and
- Adaptive/self-help (eating and dressing).²⁸

States must have various components under 20 U.S.C. 1435, which broadly covers administrative, oversight, and regulatory functions, such as:

- Policies to ensure appropriate delivery of early intervention services to infants, toddlers, and their families;
- Individualized family service plans (IFSP) for each infant or toddler with a disability;
- A properly functioning administrative structure that identifies eligible infants and toddlers using a rigorous definition of "developmental delay," makes referrals, centrally collects information, provides a directory of services and resources, incorporates data, and has a comprehensive system for personnel development;
- A single line of responsibility in a lead agency designated by the Governor, including financial responsibility, provision of services, resolution of disputes, and development of procedures to ensure timeliness of services; and
- A state interagency coordination council.

The IDEA requires that early intervention services be provided, to the maximum extent appropriate, in natural environments²⁹ such as the child's home.³⁰ Florida has increased the

²⁶ 34 CFR s. 303.650

²⁷ Center for Parent Information and Resources, *Basics of the Early Intervention Process under Part C of the IDEA - Handout I*, http://www.parentcenterhub.org/wp-content/uploads/repo_items/legacy/partc/handout1.pdf (last visited: Nov. 16, 2015).

²⁸ Center for Parent Information and Resources, *Overview of Early Intervention - What is Early Intervention?* <http://www.parentcenterhub.org/repository/ei-overview/> (last visited: Nov. 16, 2015).

²⁹ A "natural environment" includes the child's home or a community setting where children would typically be participating if they did not have a disability. See "Program Description," U.S. Department of Education, available at <http://www2.ed.gov/programs/osepeip/index.html> (last visited Dec. 11, 2015).

³⁰ U.S. Department of Education, Office of Special Education (OSEP), *Grants for Infants and Families, Part C of IDEA, Grants for Infants and Toddlers*, <http://www2.ed.gov/programs/osepeip/index.html> (last visited: Nov. 16, 2015).

delivery of services in the home or community based setting since 2008 but still falls below the national average for home-based services.³¹

Child Care and Development Block Grant (CCDBG)

The Office of Child Care (OCC) of the United States Department of Health and Human Services supports low-income working families by providing access to affordable, high-quality early care and afterschool programs.³² The OCC administers the Child Care and Development Fund (CCDF) and works with state, territory and tribal governments to provide support for children and their families to promote family economic self-sufficiency and to help children succeed in school and life through affordable, high-quality early care and afterschool programs.³³ The CCDF provides funding for state efforts to provide child care services for low-income family members who work, train for work, attend school, or whose children receive or need to receive protective services.³⁴ Block grant funding can be used for public or private, religious or non-religious, and center or home-based care.³⁵ Child care programs that accept funding must comply with state health and safety requirements.³⁶

School Readiness Program

Florida's Office of Early Learning (OEL)³⁷ is the designated lead agency for purposes of administering the CCDF Block Grant Trust Fund and provides state-level administration for the School Readiness program.³⁸ The School Readiness program is a state-federal partnership between OEL and the OCC.³⁹ The School Readiness program receives funding from a mixture of state and federal sources, including the federal CCDF, the federal Temporary Assistance for Needy Families (TANF) block grant, general revenue and other state funds.⁴⁰ The School Readiness program provides subsidies for child care services and early childhood education for children of low-income families; children in protective services who are at risk of abuse, neglect, or abandonment; and children with disabilities.

³¹ U.S. Department of Education, *36th Annual Report to Congress on the Implementation of the Individuals with Disabilities Education Act, 2014*, pg. 120-121, <http://www2.ed.gov/about/reports/annual/osep/2014/parts-b-c/36th-idea-arc.pdf> (last visited: Nov. 16, 2015).

³² Office of Child Care, *What We Do*, <http://www.acf.hhs.gov/programs/occ/about/what-we-do> (last visited January 27, 2016).

³³ *Id.*

³⁴ U.S. Department of Education, Office of Non-Public Education, <http://www2.ed.gov/about/offices/list/oji/nonpublic/childcare.html> (last visited January 27, 2016).

³⁵ *Id.*

³⁶ *Id.*

³⁷ In 2013, the Legislature established the Office of Early Learning in the Office of Independent Education and Parental Choice within the Department of Education (DOE). The office is administered by an executive director and is fully accountable to the Commissioner of Education but independently exercises all powers, duties, and functions prescribed by law, as well as adopting rules for the establishment and operation of the School Readiness program and the Voluntary Prekindergarten Education Program. Section 1, 2013-252, L.O.F., *codified as* s. 1001.213, F.S.

³⁸ Section 1002.82(1), F.S.

³⁹ Part VI, ch. 1002, F.S.; 42 U.S.C. ss. 618 & 9858-9858q.

⁴⁰ Specific Appropriation 82, s. 2, ch. 2015-232, L.O.F.

The School Readiness program utilizes a variety of providers to deliver program services, such as licensed and unlicensed child care providers and public and nonpublic schools.⁴¹ The Florida Department of Children and Families' Office of Child Care Regulation (OCCR), as the agency responsible for the state's child care provider licensing program, regulates some, but not all, of the child care providers that provide early learning programs.⁴² The program is administered at the county or regional level by early learning coalitions (ELC).⁴³

In order to be eligible to deliver the School Readiness program, a provider must be:⁴⁴

- A licensed child care facility;
- A licensed or registered family day care home (FDCH);
- A licensed large family child care home (LFCCH);
- A public school or non-public school;
- A license-exempt faith-based child care provider;
- A before-school or after-school program; or
- An informal child care provider authorized in the state's CCDF plan.⁴⁵

Reauthorization of the CCDBG Act

On November 19, 2014, the CCDBG Act of 2014 was signed into law reauthorizing the CCDF for the first time since 1996.⁴⁶ The new law prescribes health and safety requirements for School Readiness program providers and requires transparent information to parents and the general public about available child care choices.⁴⁷

While Florida's School Readiness program currently meets many of the new federal requirements, there are specific federal requirements that necessitate changes to Florida law including:⁴⁸

- Screening for child care staff to include searches of the National Sex Offender Registry, as well as searches of state criminal records, the sex offender registry and child abuse and neglect registry of any state in which the child care personnel resided during the preceding 5 years.⁴⁹

⁴¹ Section 1002.88(1)(a), F.S.

⁴² See ss. 402.301-319, F.S., and part VI, ch. 1002, F.S.

⁴³ Sections 1002.83-1002.85, F.S. There are currently 30 ELCs, but 31 is the maximum permitted by law. Section 1002.83(1), F.S. See Florida's Office of Early Learning, *Early Learning Coalition Directory* (Jan. 11, 2016), available at <http://www.floridaearlylearning.com/sites/www/Uploads/files/Coalition/Coalition%20Directory/CoalitionDirectory%201.11.16.pdf>.

⁴⁴ Section 1002.88(1)(a), F.S.

⁴⁵ See Florida Office of Early Learning, *Florida's Child Care and Development Fund State Plan FFY 2014-15*, available at http://www.floridaearlylearning.com/sites/www/Uploads/files/Oel%20Resources/2014-2015_CCDF_Plan_%20Optimized.pdf. The CCDF State Plan for 2016-2018 is due March 1, 2016 to the Administration for Children and Families and will become effective, once approved, on June 1, 2016. Florida Office of Early Learning, CCDF Plan, http://www.floridaearlylearning.com/oel_resources/ccdf_plan.aspx (last visited January 27, 2016).

⁴⁶ Office of Child Care, *CCDF Reauthorization*, <http://www.acf.hhs.gov/programs/occ/ccdf-reauthorization> (last visited January 27, 2016).

⁴⁷ *Id.*

⁴⁸ Pub. L. No. 113-186, 128 Stat. 1971, Child Care and Development Block Grant Act Reauthorization (2014), available at <https://www.gpo.gov/fdsys/pkg/PLAW-113publ186/pdf/PLAW-113publ186.pdf>.

⁴⁹ Pub. L. No. 113-186, 128 Stat. 1971, Sec. 658H(b)

- Posting of monitoring and inspection reports through electronic means.⁵⁰
- Providing parents and the general public, information, via a website, regarding:
 - The availability of child care services to promote informed child care choices;
 - The process for licensing child care providers;
 - The conducting of background screening;
 - The monitoring and inspection of child care providers; and
 - The offenses that would prevent individuals and entities from serving as child care providers in the state.⁵¹
- Inspecting license-exempt providers receiving CCDBG funds for compliance with health, safety, and fire standards.⁵²
- Requiring disaster preparedness plan to include procedures for staff and volunteer emergency preparedness training and practice drills.⁵³
- Certifying in the state plan, compliance with the child abuse reporting requirements of the Child Abuse Prevention and Treatment Act.⁵⁴

Furthermore, pursuant to the CCDBG Act of 2014, child care personnel are ineligible for employment by a School Readiness provider if an individual:⁵⁵

- Refuses to consent to a criminal background check;
- Knowingly makes a materially false statement in connection with such criminal background check;
- Is registered, or is required to be registered, on a state sex offender registry or the National Sex Offender Registry;
- Has been convicted of a felony consisting of:
 - Murder;
 - Child abuse or neglect;
 - A crime against children, including child pornography;
 - Spousal abuse;
 - A crime involving rape or sexual assault;
 - Kidnapping;
 - Arson;
 - Physical assault or battery; or
 - A drug-related offense committed during the preceding 5 years; or
- Has been convicted of a violent misdemeanor committed as an adult against a child, including:
 - Child abuse;
 - Child endangerment;
 - Sexual assault; or
 - A misdemeanor involving child pornography.

⁵⁰ Pub. L. No. 113-186, 128 Stat. 1971, Sec. 658E(c)(2)(C)

⁵¹ Pub. L. No. 113-186, 128 Stat. 1971, Sec. 658E(c)(2)(C)

⁵² Pub. L. No. 113-186, 128 Stat. 1971, Sec. 658E(c)(2)(K).

⁵³ Pub. L. No. 113-186, 128 Stat. 1971, Sec. 658E(c)(2)(U).

⁵⁴ Pub. L. No. 113-186, 128 Stat. 1971, Sec. 658E(c)(2)(L).

⁵⁵ 42 U.S.C. 9858f(c)(1).

Child Care Personnel

The Department of Children and Families (DCF) is responsible for the licensure and regulation of child care facilities, family day care homes, and large family child care homes.⁵⁶ However, there are child care providers that are not licensed by the DCF, including those that are required only to register with the DCF and those that are exempt from licensure by virtue of being an integral part of a church or parochial school.⁵⁷

All child care personnel employed in a setting regulated by the DCF, whether licensed, registered, or religious-exempt, are required to undergo background screening using the level 2 standards set forth in chapter 435, F.S.⁵⁸ If an applicant for employment is disqualified from working with children due to the results of the level 2 background screening, the Secretary of the DCF may grant an exemption from that disqualification.⁵⁹

Level 2 Background Screening

A level 2 background screening includes, but is not limited to, fingerprinting for statewide criminal history records checks through the Florida Department of Law Enforcement (FDLE) and national criminal history checks through the Federal Bureau of Investigation (FBI), and may include local criminal records checks through local law enforcement agencies.⁶⁰ A vendor may perform all or part of the electronic fingerprinting of an applicant and submit those fingerprints to the FDLE, which in turn runs statewide records checks and submits the electronic file to the FBI for national records checks.⁶¹

Once the background screening is completed, and FDLE has received the information from the FBI, the criminal history information is transmitted to the DCF. The DCF then determines if the screening contains any disqualifying information for employment. The DCF must ensure that no applicant has been arrested for, is awaiting final disposition of, has been found guilty of, or entered a plea of nolo contendere or guilty to any prohibited offense including, but not limited to, such crimes as sexual misconduct, murder, assault, kidnapping, arson, exploitation, lewd and lascivious behavior, drugs, and domestic violence.⁶² If the DCF finds that an individual has a history containing any of these offenses, they must disqualify that individual from employment in child care settings regulated by the DCF.⁶³

Exemptions from Disqualification

The Secretary of the DCF is authorized to grant an exemption from disqualification to applicants for employment, including child care applicants, based on the following:⁶⁴

⁵⁶ Sections 402.301-402.319, F.S.

⁵⁷ Section 402.316, F.S.

⁵⁸ Section 402.305 (2)(a), F.S. The level 2 background screening standards are set forth in s. 435.04, F.S.

⁵⁹ Section 435.07, F.S.

⁶⁰ Section 435.04(1)(a), F.S.

⁶¹ *Id.* at (1).

⁶² *Id.* at (2).

⁶³ Section 435.07, F.S.

⁶⁴ *Id.* at (1).

- Felonies for which at least 3 years have elapsed since the applicant for the exemption has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court for the disqualifying felony;
- Misdemeanors prohibited under chapter 425, F.S., or under similar statutes of other jurisdictions for which the applicant for the exemption has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court;
- Offenses that were felonies when committed but that are now misdemeanors and for which the applicant for the exemption has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court; or
- Findings of delinquency.⁶⁵

The Secretary of the DCF may not grant an exemption to an individual who is found guilty of, regardless of adjudication, or who has entered a plea of nolo contendere or guilty to, specified felony or misdemeanor offenses solely by reason of any pardon, executive clemency, or restoration of civil rights.⁶⁶ Also, an exemption may not be granted to anyone who is considered a sexual predator,⁶⁷ career offender,⁶⁸ or sexual offender (unless not required to register).⁶⁹

III. Effect of Proposed Changes:

The bill revises the Early Steps program in the Department of Health (DOH) and revises provisions of the School Readiness program to align to federal requirements in the 2014 reauthorization of the Child Care and Development Block Grant.

Developmental Disabilities Information Clearinghouse

The bill amends s. 383.141, F.S., to provide additional direction to the information clearinghouse administered by the DOH. The bill requires the clearinghouse to provide comprehensive information to educate parents and providers of early intervention services. The DOH is directed to refer to children with developmental disabilities or delays as children with “unique abilities” whenever possible in the clearinghouse. The DOH is to provide education and training to parents and providers through the clearinghouse. The clearinghouse is to promote public awareness of intervention services available to parents of children with unique abilities.

The bill deletes from Florida law the requirement for the DOH to establish access to clearinghouse information on its Internet website. The program is already subject to similar requirements under federal regulations.

⁶⁵ *Id.* at (1)(a)4. For offenses that would be felonies if committed by an adult and the record has not been sealed or expunged, the exemption may not be granted until at least 3 years have elapsed since the applicant for the exemption has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court for the disqualifying offense. *Id.*

⁶⁶ Sections 435.03 and 435.04(2), F.S.

⁶⁷ Section 775.21, F.S.

⁶⁸ Section 775.261, F.S.

⁶⁹ Sections 943.0435 and 943.04354, F.S.

Early Steps Program

The bill renames the Florida Infants and Toddlers Early Intervention Program under the Children's Medical Services program as the Early Steps program and adds to the DOH's responsibilities the administration of the Early Steps program.

The bill also updates the legislative intent of the Early Steps program and establishes goals for the program. Under the bill, the program must:

- Integrate information and coordinate services with other programs serving infants and toddlers;
- Enhance the development of infants and toddlers with disabilities and delays;
- Increase the awareness among parents, health care providers, and the public of the importance of the first three years of life for the development of the brain;
- Maintain the importance of the family in early intervention services;
- Provide comprehensive and coordinated services;
- Ensure timely evaluation of infants and toddlers and provide individual planning for intervention services;
- Improve the capacity of health care providers to serve children with unique needs; and
- Ensure programmatic and financial accountability through the establishment of a high-capacity data system, active monitoring of performance indicators, and ongoing quality improvement.

The bill amends s. 391.302, F.S., to add definitions for “developmental delay,” “developmental disability,” “habilitative services and devices,” “local program office,” and “rehabilitative services and devices” for the Early Steps program. The bill also deletes the definitions of “in-hospital intervention services” and “parent support and training.”

The bill amends s. 391.308, F.S., to provide additional structure and guidance for the Early Steps program. The bill establishes performance standards for the program relating to services and referrals, individualized family support plans, and outcomes for infants and toddlers served.

The bill provides new duties to the DOH for the Early Steps program. The bill requires the DOH to:

- Develop a statewide plan for the program;
- Ensure that local program offices educate hospitals providing Level II and Level III neonatal intensive care about the program and the referral process for evaluation and intervention services;
- Establish standards and qualifications for service providers used by the program;
- Develop uniform procedures to determine eligibility for the program;
- Provide a statewide format for individualized family support plans;
- Promote interagency cooperation with the Medicaid program, the Department of Education, and programs providing child screening;
- Provide guidance to local program offices for coordinating Early Step program benefits with other programs such as Medicaid and private insurance;

- Provide a mediation process and, if necessary, an appeals process for parents whose infant or toddler is determined not to be eligible for developmental evaluation or early intervention services or who were denied financial support for such services;
- Competitively procure local offices to administer the Early Steps program;
- Establish performance measures and standards to evaluate local Early Step offices; and
- Provide technical assistance to local Early Step offices.
- Report to the Governor and Legislature on the performance of the Early Steps program December 1st each year.

The bill establishes eligibility criteria for the Early Steps program. The eligibility criteria are based on federal law with the underlying premise that infants and toddlers are eligible for an evaluation to determine the presence of a developmental disability or the risk of a developmental delay based on a physical or medical condition. The DOH is directed to apply specified criteria to determine eligibility for post-evaluation services if funding is provided, and the associated applicable eligibility criteria are identified, in the General Appropriations Act. Infants and toddlers meeting the following criteria will be determined eligible:

- Having a developmental delay based on informed clinical opinion and an evaluation using a standard evaluation instrument which results in a score that is 1.5 standard deviations from the mean in two or more of the following domains: physical, cognitive, communication, social or emotional, and adaptive;
- Having a developmental delay based on informed clinical opinion and an evaluation using a standard evaluation instrument which results in a score that is 2.0 standard deviations from the mean in one of the following domains: physical, cognitive, communication, social or emotional, and adaptive;
- Having a developmental delay based on informed clinical opinion and an evaluation using a standard evaluation instrument which results in a score that is 1.5 standard deviations from the mean in one or more of the following domains: physical, cognitive, communication, social or emotional, and adaptive;
- Having a developmental delay based on informed clinical opinion; or
- Being at risk of developmental delay based on an established condition known to result in developmental delay, or a physical or mental condition known to create a risk of developmental delay.

The bill provides duties to the Early Steps offices. These offices must:

- Evaluate a child within 45 days after referral;
- Notify parents if the child is eligible for services and provide an appeal process to those parents whose child is found ineligible;
- Make interagency agreements with local school districts;
- Provide services directly or procure early intervention services;
- Provide services in a natural environment to the extent possible;
- Develop an individualized family support plan for each child served in the program;
- Assess the progress of the child in meeting the goals of the individualized family support plan;
- Provide service coordination to ensure that assistance for families is properly managed, regardless of whether the program provides the services directly or through referral to other service providers;

- Make agreements with local Medicaid managed care organizations;
- Make agreements with local private insurers;
- Provide data required by the DOH to assess the performance of the program; and
- Facilitate transition to the local school district after age three for a child needing special education or related services.

The bill designates the Florida Interagency Coordinating Council for Infants and Toddlers as the state interagency coordination council required under federal law.

School Readiness Program

This bill revises provisions relating to health and safety standards and eligibility for the School Readiness program to align to federal requirements in the 2014 reauthorization of the Child Care and Development Block Grant (CCDBG).

Specifically, the bill:

- Increases health and safety standards.
- Expands requirements for employment history checks and child care personnel background screenings.
- Expands availability of child care information, including inspection and monitoring reports.
- Expands School Readiness provider standards to include preservice and inservice training requirements and appropriate group size and staff-to-child ratios.
- Aligns child eligibility criteria to the federal requirements.

Health & Safety Standards

Current law requires a child care provider to provide basic health and safety of its premises and facilities and compliance with requirements for age-appropriate immunizations of children. A licensed provider may satisfy this requirement through compliance with current licensing standards for child care facilities, large family child care homes, or family day care homes. Faith-based child care providers, informal child care providers, and nonpublic schools exempt from licensure satisfy this requirement by posting a health and safety checklist adopted by the Office of Early Learning (OEL).

Pursuant to the CCDBG Reauthorization, all School Readiness program providers must meet a minimum level of health and safety requirements and receive at least one annual inspection. The bill requires registered or license-exempt School Readiness providers to comply with the health and safety checklist and training requirements adopted by the OEL, as well as the child care personnel background screening requirements.

Screening of Child Care Personnel

The bill redefines the definition of “screening” to include employment history checks consisting of documented attempts to contact each employer that employed the child care applicant within the preceding 5 years and documented findings from such contact. The bill requires that a screening include a search of the criminal history records, sexual predator and sexual offender registry, and child abuse and neglect registry of any state in which the applicant resided during

the preceding 5 years. In effect, the bill revises the definition of screening to align to the new federal requirements, and requires that any School Readiness provider screen individuals seeking employment in a manner consistent with the requirements.

The bill authorizes the use of information in the Department of Children and Families' (DCF) Central Abuse Hotline for purposes of conducting background screenings of child care personnel. Generally, the use of information in the Central Abuse Hotline is prohibited from being used for employment screenings, except in specified instances (*e.g.*, child or adult protective investigations or licensure or approval of child care facilities). Furthermore, the bill authorizes employees, authorized agents, and contract providers of the OEL to have access to DCF child abuse and neglect reports and records to ensure compliance with the federal requirements.

Disqualification from Employment

The bill prohibits the removal of or exemption from disqualification from employment for any current or prospective School Readiness provider personnel if an individual is registered, or is required to be registered, as a sex offender.⁷⁰ The bill disqualifies current or prospective personnel from employment with a School Readiness provider if they are arrested and awaiting final disposition or convicted of, or plead guilty to, specified state felony and misdemeanor offenses or similar offenses in another jurisdiction, including federal offenses. The bill also disqualifies a person from employment with a School Readiness provider regardless of any prior exemption from disqualification. The change in law is consistent with the federal prohibitions relating to child care personnel of School Readiness providers pursuant to the CCDBG Act of 2014.⁷¹

Affidavit of Compliance with Mandatory Child Abuse Reporting

The bill requires each child care facility, family day care home, and large family day care home to annually submit an affidavit of compliance with the mandatory reporting requirements in Florida law.⁷² The change in law is consistent with the new federal requirement that child care personnel of School Readiness providers be familiar and comply with the mandatory child abuse, abandonment, or neglect reporting requirements.

DCF Inspection & Monitoring of School Readiness Providers

The bill requires School Readiness providers to permit access to the DCF to inspect facilities, personnel, and records for the purpose of verifying compliance with the standards established and adopted by the OEL. Under the bill, inspection and monitoring of School Readiness providers by the DCF or local licensing agencies must be governed by a memorandum of understanding between the OEL and the DCF or local licensing agencies for verifying compliance solely with the standards contained in the statewide provider contract and the health and safety checklist. Furthermore, the bill requires that a School Readiness provider's contract be terminated if the provider refuses permission for entry or inspection.

⁷⁰ 42 U.S.C. 9858f(c)(1)(C).

⁷¹ 42 U.S.C. 9858f(c)(1).

⁷² See s. 39.201, F.S.

Child Care Information

The bill requires the DCF and local licensing agencies to make electronically available to the public all licensing standards and procedures, health and safety standards for School Readiness providers, monitoring and inspection reports, and the names and addresses of licensed child care facilities, School Readiness providers, and licensed or registered family day care homes.

Additionally, the bill requires the DCF to make publicly available the following information:

- Number of deaths, serious injuries, and instances of substantiated child abuse which have occurred in child care settings each year;
- Research and best practices in child development; and
- Resources regarding social-emotional development, parent and family engagement, healthy eating, and physical activity.

Requiring that such information be made publicly available is consistent with the federal requirements in the CCDBG Reauthorization.

Office of Early Learning's Duty to Align Standards to the Federal Requirements

Consistent with federal law, the bill requires the OEL to:

- Develop and implement strategies to increase the supply and improve the quality of child care services for infants and toddlers, children with disabilities, children who receive care during nontraditional hours, children in underserved areas, and children in areas that have significant concentrations of poverty and unemployment.
- Establish preservice and inservice training requirements addressing, at a minimum:
 - School Readiness child development standards.
 - Health and safety requirements.
 - Social-emotional behavior intervention models.
- Establish standards for emergency preparedness plans.
- Establish group size and staff-to-child ratios.
- Establish eligibility criteria, including income-based limitations and family assets.

Child Eligibility

The bill revises provisions relating to child eligibility to align to the federal requirement that once a child is deemed eligible for School Readiness program services, he or she remains eligible for a minimum of 12 months. Under current law, a child's eligibility may be redetermined at any time based on a change in family income or upon notification of a parent's change in employment status. Consequently, the bill repeals a requirement that each early learning coalition (ELC) redetermine eligibility twice per year for an additional 50 percent of the ELC's enrollment through a statistically valid random sampling.

Pursuant to the CCDBG Reauthorization, the bill provides that if a child's eligibility priority category requires the child to be from a working family, he or she will become ineligible to receive School Readiness program services if the parent does not reestablish employment or resume attendance at a job training or educational program within 90 days after becoming unemployed or ceasing to attend the job training or educational program. Current law affords a parent 60 days to reestablish employment or resume attendance at a job training or educational

program. The change will provide additional time for parents to reestablish employment or resume attendance at a job training or educational program, so that their children may continue to receive School Readiness program services.

Also, the bill authorizes an ELC to temporarily waive the parent's copayment for a child whose family's income is at or below the federal poverty level and whose family experiences a natural disaster or an event that limits the parent's ability to pay. Authorizing waiver of the copayment is consistent with federal law, which contemplates that a copayment not be a barrier to families receiving School Readiness program services.

The bill provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under CS/SB 7058, additional guidance provided for the administration of the Early Steps program may result in additional opportunities for private providers of early childhood intervention services.

The Department of Health (DOH) reports that local Early Steps agencies under contract with the DOH might experience an increased workload associated with additional duties under the bill. Such an effect, if any, has an indeterminate cost.⁷³

⁷³ Department of Health, *2016 Agency Legislative Bill Analysis, SB 7034*, Jan. 20, 2016, on file with the Senate Appropriations Subcommittee on Health and Human Services.

C. Government Sector Impact:

The DOH reports that eligibility criteria created under the bill, if applied, will result in at least 1,000 children becoming eligible for Early Steps who would not otherwise qualify, at a cost of \$1,317,000 recurring general revenue.⁷⁴ However, the bill directs the DOH to apply the new eligibility criteria if specific funding is provided, and the associated applicable eligibility criteria are identified, in the General Appropriations Act (GAA), and the GAA might or might not include such funding.

The DOH also reports that, under the bill:⁷⁵

- The requirements for new hotlines specific to Down syndrome and other prenatally diagnosed developmental disabilities, the expansion of the clearinghouse database, and the accompanying duties to revise the DOH website, will cost \$130,988 in general revenue, \$3,999 of which is nonrecurring, which includes funding for a new full-time equivalent (FTE) position; and
- The DOH might experience a recurring, but indeterminate, increase in workload associated with other duties that existing DOH resources cannot absorb.

The bill also requires additional licensing and inspections related to the School Readiness program. SB 2500, the Senate 2016-2017 General Appropriations Bill, appropriates \$614,755 to the Department of Children and Families for these additional requirements.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Department of Health (DOH) reports that:⁷⁶

- The bill's provision for eligibility criteria to be implemented "if specific funding is provided" could create a conflict with the program's nature as an entitlement program; and
- The bill's requirements for posting public information do not meet the federal requirements for stakeholder input and that a more realistic implementation date for the bill's changes to eligibility criteria would be January 2017.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 39.201, 39.202, 383.141, 391.025, 391.026, 391.301, 391.302, 391.308, 402.302, 402.3025, 402.306, 402.311, 402.319, 413.092, 435.07, 1002.82, 1002.84, 1002.87, 1002.88, 1002.89, and 1003.575.

The bill repeals the following sections of the Florida Statutes: 391.303, 391.304, 391.305, 391.306, 391.307, and 402.3057.

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Appropriations on February 18, 2016:

The committee substitute revises the Early Steps program in the Department of Health (DOH). Specifically, the bill

- Expands the duties of the DOH clearinghouse for information on early intervention services for parents and providers of early intervention services.
- Provides goals for the Early Steps program, defines terms, and assigns duties to the DOH as well as the local Early Steps offices.
- Sets eligibility criteria for the program.
- Requires a statewide plan, performance standards, and an accountability report each year.
- Designates the Florida Interagency Coordinating Council for Infants and Toddlers as the state interagency coordination council required under federal law.
- Provides procedures for the successful transition of children from the Early Steps program to the local school districts.
- Repeals outdated sections of statute relating to the Early Steps program.

B. Amendments:

None.