

By Senator Passidomo

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1 A bill to be entitled
2 An act relating to the temporary respite care of a
3 child; creating s. 409.1761, F.S.; defining terms;
4 authorizing certain organizations to establish
5 programs for the purpose of assisting parents and
6 legal guardians in providing temporary respite care
7 for a child; restricting care to specified children;
8 providing that placement of a child in temporary
9 respite care does not, in the absence of evidence to
10 the contrary, constitute abuse, neglect, or
11 abandonment or placement in foster care; authorizing
12 the Department of Children and Families to refer
13 children to such programs under certain circumstances;
14 providing requirements for an organization to register
15 with a qualified association; requiring collection and
16 retention of specified information; providing an
17 exemption from specified licensure requirements under
18 certain circumstances; requiring notification of
19 specified information to the department; providing
20 applicability; requiring background screening of
21 specified persons; providing exceptions; requiring
22 parents or legal guardians to enter into a contract
23 for care as a condition of participation in the
24 program; providing requirements for such contracts;
25 requiring a separate authorization for certain care;
26 providing an effective date.

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28 Be It Enacted by the Legislature of the State of Florida:

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30 Section 1. Section 409.1761, Florida Statutes, is created
31 to read:

32 409.1761 Organizations providing temporary respite care for

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33 children not in the child welfare system.-

34 (1) DEFINITIONS.-As used in this section, the term:

35 (a) "Qualified association" means an association that:

36 1. Publishes and requires compliance with its standards and
37 files copies thereof with the department as provided in s.
38 409.176(5)(b); and

39 2. Establishes, publishes, and requires compliance with
40 best practice standards for operating a program that assists
41 parents and legal guardians in providing temporary respite care
42 for a child by a volunteer respite family.

43 (b) "Qualified nonprofit organization" or "organization"
44 means a Florida private nonprofit organization that assists
45 parents and legal guardians in providing temporary respite care
46 for a child by a volunteer respite family under an agreement
47 with a qualified association.

48 (c) "Volunteer respite family" means an individual or a
49 family who voluntarily agrees to provide temporary care for a
50 child under a contract for care with the child's parent or legal
51 guardian with the assistance of a qualified nonprofit
52 organization.

53 (2) QUALIFIED NONPROFIT ORGANIZATION.-A qualified nonprofit
54 organization may establish a program that assists parents and
55 legal guardians in providing temporary respite care for a child
56 by a volunteer respite family. Only a child who has not been
57 removed from the child's parent or legal guardian due to abuse
58 or neglect and placed in the custody of the department is
59 eligible to be cared for under this section. Placement of a
60 child under this section, in the absence of evidence to the
61 contrary, does not constitute abuse, neglect, or abandonment as

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62 these terms are defined in s. 39.01 and is not considered to be
63 placement of the child in foster care. However, the department
64 may refer a child to an organization's program if the department
65 determines that the services are appropriate for addressing the
66 needs of a family in crisis, preventing the child from being
67 placed in the custody of the department, or achieving
68 reunification of the child with his or her biological family.

69 (a) Registration.—A qualified nonprofit organization that
70 provides temporary respite care to children under this section
71 shall annually register with a qualified association.

72 1. In order to register, the organization must provide each
73 year to the qualified association:

74 a. The name and address of the organization; the names and
75 addresses of the officers and the members of the board of
76 directors or other governing body of the organization, as
77 applicable; the name of the person in charge of the
78 organization; and proof that the organization and its volunteer
79 respite families are in compliance with the minimum health,
80 sanitary, and safety standards required by applicable state law
81 or local ordinance, the uniform firesafety standards required by
82 chapter 633, and the personnel screening requirements in s.
83 409.175 and chapter 435; and

84 b. The relevant data on the services provided by the
85 organization, including the organization's capacity and the
86 number of approved volunteer respite families; the number and
87 ages of children being cared for through the organization, the
88 number of children who have left the care of the organization
89 during the past year, the length of stay of each child, and the
90 reason for each child's care; and the names of all personnel.

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91 2. Upon verification that all requirements for registration
92 have been met, the qualified association shall, without charge,
93 issue a certificate of registration valid for 1 year.

94 (b) Collection and retention of information and
95 documentation.—

96 1. An organization shall collect and maintain, at a
97 minimum, the following information and documentation for each
98 child to whom it provides temporary respite care:

99 a. The name and age of the child;

100 b. The name, address, and contact information for the
101 child's parent or legal guardian;

102 c. The name, address, and contact information of the
103 child's volunteer respite family;

104 d. A copy of the contract for care of the child executed
105 pursuant to subsection (3); and

106 e. Proof of the volunteer respite family's compliance with
107 the personnel screening requirements in s. 409.175 and chapter
108 435.

109 2. An organization shall maintain on site and provide, upon
110 request, proof that the organization is in compliance with
111 published minimum standards that are filed by the qualified
112 association with the department as provided in s. 409.176(5)(b).
113 The qualified association has the right to access and review the
114 organization's files at any time to ensure compliance with this
115 section and the standards established by the qualified
116 association.

117 (c) Exemption from licensure.—The licensing provisions of
118 s. 409.175 do not apply to a qualified nonprofit organization
119 under this section. However, such organizations and their

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120 volunteer respite families must meet the personnel screening
121 requirements in s. 409.175 and chapter 435.

122 (d) Notification requirements.—Any organization that is
123 registered with a qualified association shall immediately notify
124 the department if it has in its care a child with a serious
125 developmental disability or a physical, emotional, or mental
126 handicap for which the organization is not qualified or able to
127 provide care.

128 (e) Applicability.—The provisions of chapter 39 regarding
129 the reporting of child abuse, abandonment, and neglect apply to
130 any organization registered with a qualified association.

131 (f) Background screening.—A qualified nonprofit
132 organization shall conduct a screening, as that term is defined
133 in s. 409.175, of each individual identified in subparagraph 2.

134 1. The department shall maintain and, upon request, shall
135 provide proof of compliance of the personnel of the organization
136 and the members and household of the volunteer respite families
137 with the screening requirements in s. 409.175 and chapter 435.

138 2. Individuals required to be screened under this section
139 include:

140 a. An employee of the organization who assists parents or
141 legal guardians in providing respite care;

142 b. A member of the family that is providing respite care
143 for a child, or a person residing with the family, who is at
144 least 12 years of age. A person who is 12 years of age or older
145 but younger than 18 years of age must be screened for
146 delinquency records, but is not required to be fingerprinted;
147 and

148 c. A volunteer who assists on an intermittent basis for

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149 less than 10 hours per month, unless a person who meets the
150 screening requirements in s. 409.175 and chapter 435 is present
151 and has the volunteer in his or her line of sight at all times.

152 (3) CONTRACT FOR CARE.—A parent or legal guardian of a
153 child must enter into a written contract with the qualified
154 association for the provision of temporary respite care of the
155 child under this section. The contract must be executed before,
156 or at the time, the child is placed with a volunteer respite
157 family and organization. Through the contract for care, the
158 parent or legal guardian may delegate to the volunteer respite
159 family any of the powers regarding the care and custody of the
160 child, except the power to consent to the marriage or adoption
161 of the child, the performance or inducement of an abortion on
162 the child, or the termination of parental rights regarding the
163 child. The parent or legal guardian may revoke or withdraw the
164 contract for care at any time, and the child shall be returned
165 to the custody of the parent or legal guardian as soon as
166 reasonably possible. A contract for care executed under this
167 section expires automatically after 1 year and may not operate
168 to deprive a parent or legal guardian of any parental or legal
169 authority regarding the care and custody of the child or
170 supersede a court order regarding the care and custody of the
171 child. Each contract must:

172 1. Enumerate the basic services and accommodations provided
173 by the volunteer respite family and organization.

174 2. Identify the child, parent or legal guardian, and
175 volunteer respite family, including necessary contact
176 information for all parties.

177 3. Identify the organization, including the address,

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178 telephone number, and primary point of contact.

179 4. Contain a clear statement regarding disciplinary
180 procedures.

181 5. State that the goal of the organization is to return the
182 child receiving respite care to the parent or legal guardian as
183 soon as the situation requiring the need for care has been
184 resolved.

185 6. Authorize the volunteer respite family to consent on
186 behalf of the parent or legal guardian to routine and emergency
187 medical care for the child. However, the volunteer respite
188 family shall immediately notify the parent or legal guardian of
189 medical care being provided to the child while the child is
190 under the care of the volunteer respite family. Such
191 authorization must be granted separately in the contract by the
192 parent or legal guardian.

193 Section 2. This act shall take effect July 1, 2017.