

**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.)

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Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

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BILL: CS/SB 1360

INTRODUCER: Children, Families, and Elder Affairs and Senator Broxson

SUBJECT: Child Welfare

DATE: February 8, 2018

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	Fav/CS
2.			AHS	
3.			AP	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1360 makes a number of changes to the child welfare system related to fingerprinting of a member in a household being considered as a prospective placement for a child in out-of-home care and the allocation formula used to distribute additional funding to community-based lead agencies (CBCs).

The bill also adds two federal Child Care and Development Block Grant Act requirements, not previously addressed in state law, to align background screening requirements for child care personnel. The change will allow the Department of Children and Families (DCF or department) to utilize out-of-state criminal history records results for the past five years, and adds drug offenses to the list of disqualifying offenses in ch. 893, F.S., for child care personnel.

The bill has an effective date of July 1, 2018.

**II. Present Situation:**

**Limitations on Placement of a Child**

When the Department of Children and Families (DCF or department) considers placement of a child in the child welfare system, it must conduct a records check through the State Automated Child Welfare Information System (SACWIS) and a local and statewide criminal history records check on all persons under consideration for child placement including all nonrelative placement

decisions, and all members of the household, 12 years of age and older, of the person being considered.<sup>1</sup> This records check may include, but is not limited to, submission of fingerprints to the Department of Law Enforcement for processing and forwarding to the Federal Bureau of Investigation for state and national criminal history information.<sup>2</sup>

Current law prohibits the department from considering out-of-home placements with persons who have been convicted of a felony that falls within any of the following categories:

- Child abuse, abandonment, or neglect;
- Domestic violence;
- Child pornography or other felony in which a child was a victim of the offense; or,
- Homicide, sexual battery, or other felony involving violence, other than felony assault or felony battery when an adult was the victim of the assault or battery.

In addition, DCF may not place a child with a person other than a parent if that person has been convicted of assault, battery, or a drug-related offense within the previous five years.<sup>3</sup>

### **Community-Based Care Lead Agencies**

The department contracts for all foster care and related services with community-based care lead agencies (CBCs).<sup>4</sup> CBCs are responsible for providing foster care and related services.<sup>5</sup> Related services include, but are not limited to, family preservation, independent living, emergency shelter, residential group care, foster care, therapeutic foster care, intensive residential treatment, foster care supervision, case management, coordination of mental health services, postplacement supervision, permanent foster care, and family reunification. CBCs contract with a number of subcontractors for case management and direct care services to children and their families and must give priority to services that are evidence-based and trauma informed.<sup>6</sup>

There are 17 CBCs statewide, which together serve the state's 20 judicial circuits. Current law requires that the department provide funding to the CBC lead agencies based on an equity allocation model. The model was designed to allocate additional funds among lead agencies based on the particular population served by each organization. The model includes "core services funding," which is defined to mean all funds allocated to the CBCs operating under contract with DCF pursuant to s. 409.987, F.S., with a number of exceptions.<sup>7</sup>

Since fiscal year 2015-2016, recurring core services funding to each CBC has been based fully on the prior year's recurring base funding.<sup>8</sup> Additional core services funding that may become available is distributed based on the equity allocation model, as follows:

- 20 percent of any new funding is allocated among all CBCs;

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<sup>1</sup> Section 39.0138, F.S.

<sup>2</sup> *Id.*

<sup>3</sup> Section 39.0138(3), F.S.

<sup>4</sup> Section 409.986, F.S.

<sup>5</sup> *Id.*

<sup>6</sup> Section 409.988, F.S.

<sup>7</sup> Section 409.991, F.S.

<sup>8</sup> *Id.*

- 80 percent of any new funding is allocated to CBCs that are currently funded below their equitable share. Funds are weighted based on each CBC's proportion of the total amount of funding below the equitable share.<sup>9</sup>

The equity allocation model requires that these additional funds be distributed among the CBCs based on the following factors:

- The proportion of the child population in the relevant geographic area being served by the CBC;
- The proportion of the child abuse hotline workload serviced by the CBC; and,
- The proportion of children in care, weighted as 60 percent based on children in out-of-home care and 40 percent based on children in in-home care.<sup>10</sup>

These factors are then used by DCF for funding allocation purposes, with distribution of core services funds for each CBC calculated as follows:

- Proportion of the child population, weighted as 5 percent of the total;
- Proportion of child abuse hotline workload, weighted as 15 percent of the total; and
- Proportion of children in care, weighted as 80 percent of the total.<sup>11</sup>

### **Child Care Licensure**

The department has responsibility for regulation of child care facilities, family day care homes, and large family child care homes, including those that are also School Readiness providers. Current law requires personnel of these providers to have good moral character based upon screening.<sup>12</sup> Additionally, some entities caring for children are not subject to regulation by DCF's child care program but their personnel are subject to background screening.<sup>13</sup> Screening must be conducted as provided in ch. 435, F.S., using Level 2 standards.<sup>14</sup>

### **Child Care and Development Block Grant**

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 child care. OCC 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.<sup>15</sup>

Florida's Office of Early Learning (OEL)<sup>16</sup> provides state-level administration for the School Readiness program. The School Readiness program is a state-federal partnership between OEL

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<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> Section 402.305, F.S.

<sup>13</sup> For example, a child care facility that is an integral part of a church or parochial schools meeting certain requirements. Section 402.316, F.S.

<sup>14</sup> *Id.*

<sup>15</sup> U.S. Department of Health and Human Services, Office of Child Care, *What We Do*, (August 19, 2016) <http://www.acf.hhs.gov/programs/occ/about/what-we-do> (last visited February 6, 2018).

<sup>16</sup> 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

and the Office of Child Care of the United States Department of Health and Human Services.<sup>17</sup> The School Readiness program receives funding from a mix of state and federal sources, including the federal Child Care and Development Block Grant (CCDBG), the federal Temporary Assistance for Needy Families (TANF) block grant, general revenue and other state funds. The school readiness program gives subsidies for child care services and early childhood education to low-income families and for children in protective services who are at risk of abuse, neglect, or abandonment; and children with disabilities.

The program uses a variety of providers, such as licensed and unlicensed child care providers and public and nonpublic schools.<sup>18</sup> The Florida Department of Children and Families' Office of Child Care Regulation (DCF), as the agency responsible for the state's child care provider licensing program, regulates many, but not all, child care providers that provide early learning programs.<sup>19</sup>

On November 19, 2014, the Child Care and Development Block Grant (CCDBG) Act of 2014 was signed into law. The new law prescribed health and safety requirements that apply to school readiness program providers and required better information to parents and the general public about available child care choices.

Based on the new requirements of the CCDBG, to continue to receive federal funding, states must require that screening for child care staff include searches of the National Sex Offender Registry, as well as searches of state criminal records, sex offender registry and child abuse and neglect registry of any state in which the child care personnel resided during the preceding five years.<sup>20</sup> Additionally, a state must make ineligible for employment by school readiness providers any person who is registered, or is required to be registered, on a state sex offender registry or the National Sex Offender Registry<sup>21</sup> or has been convicted 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;
- A drug-related offense committed during the preceding five years; or
- A violent misdemeanor committed as an adult against a child, including the following crimes: child abuse, child endangerment, sexual assault, or a misdemeanor involving child pornography.<sup>22</sup>

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accountable to the Commissioner of Education but shall independently exercise all powers, duties, and functions prescribed by law, as well as adopt rules for the establishment and operation of the School Readiness program and the Voluntary Prekindergarten Education Program. Section 1001.213, F.S.

<sup>17</sup> Part VI, ch. 1002, F.S.

<sup>18</sup> Section 1002.88(1)(a), F.S.

<sup>19</sup> See ss. 402.301-319, F.S., and part VI, ch. 1002, F.S.

<sup>20</sup> Pub. Law No. 113-186, 128 Stat. 1971, Sec. 658H(b)

<sup>21</sup> 42 U.S.C. s. 9858f(c)(1)(C).

<sup>22</sup> 42 U.S.C. s. 9858f(c)(1).

In 2016, the Legislature aligned the state's child care personnel screening standards with the CCDBG Act of 2014 requirements, specifying new screening requirements in ch. 402, F.S., and including these limitations on granting disqualifications in ch. 435, F.S.<sup>23</sup>

### III. Effect of Proposed Changes:

**Section 1.** Amends s. 39.0138, F.S., relating to criminal history and other records checks and the limits on placing a child, to allow the department to grant an exemption under certain circumstances, from a fingerprinting requirement to a household member with a physical, developmental, or cognitive disability that prevents him or her from being fingerprinted and grants the department rulemaking authority to administer the provision. It provides that the proposed exemption process will include a Level 1 background screening when an exemption is approved. It also adds the offense of resisting arrest with violence as a disqualifier for an individual from being considered as a placement for a child.

**Section 2.** Amends s. 402.305, F.S., relating to licensure standards for child care facilities, to add two federal Child Care and Development Block Grant Act requirements, not previously addressed in state law, to align background screening requirements for child care personnel. The change will allow the department to utilize out-of-state criminal history records results for the past five years and requires fingerprint submissions for child care personnel to comply with s. 435.12, F.S.

**Section 3.** Amends s. 409.175, F.S., relating to licensure of family foster homes, residential child-caring agencies, and child-pacing agencies, to define the term "severe disability" and to allow the department to grant an exemption under certain circumstances, from a fingerprinting requirement to a household member with a severe disability that prevents him or her from being fingerprinted.

**Section 4.** Amends s. 409.991, F.S., relating to allocation of funds for community-based care lead agencies, to amend the definition of the term "proportion of children in care" and revise the formula for the allocation of any additional core services funding to CBCs that are funded below their equitable share. The bill directs the department to distribute available core services funds to each CBC through the following formula:

- Proportion of the child population, remaining as 5 percent of the total;
- Proportion of child abuse hotline workload, weighted as 35 percent of the total rather than 15 percent; and
- Proportion of children in care, weighted as 60 percent of the total, rather than 80 percent. The proportion of children in care is calculated based on 55 percent weight for children in out-of-home care (instead of 60 percent), 30 percent weight for on children in in-home care (instead of 40 percent), and 15 percent weight based on children in family support services which is a new category.

Additional core services funding that may become available is distributed based on the equity allocation model, as follows:

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<sup>23</sup> Chapter 2106-238, Laws of Fla.

- 70 percent of any new funding is allocated among all CBCs;
- 30 percent of any new funding is allocated to CBCs that are currently funded below their equitable share. Funds are weighted based on each CBC's proportion of the total amount of funding below the equitable share.

**Section 5.** Amends s. 435.07, F.S., relating to exemptions from disqualification, to add drug offenses to the list of disqualifying offenses in Chapter 893 for child care personnel.

**Section 6.** Amends s. 402.30501, F.S., relating to modification of introductory child care course for community college credit, to conform references to changes made by the act.

**Section 7.** Amends s. 1002.59, F.S., relating to emergent literacy and performance standards training courses, to conform references to changes made by the act.

**Section 8.** Amends s. 1002.55, F.S., to school-year prekindergarten program delivered by private prekindergarten providers, to conform references to changes made by the act.

**Section 9.** Amends s. 1002.57, F.S., relating to prekindergarten director credential, to conform references to changes made by the act.

**Section 10.** Provides an effective date of July 1, 2018.

#### **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:

See Government Sector Impact.

**C. Government Sector Impact:**

CS/SB 1360 would revise the formula for distributing new funding to the CBC lead agencies. As an example, if a new appropriation of \$10 million was made, the distribution of the funding under current law and under the bill are described below.

<b>CBC Funding Formula Changes with a \$10 million Appropriation</b>				
	<b>Community Based Care Agency</b>	<b>Current Formula</b>	<b>Proposed Formula</b>	<b>Difference</b>
1	Lakeview Center (aka Families First Network)	320,849	366,354	45,505
2	Big Bend CBC	66,576	248,176	181,600
3	Partnership for Strong Families	198,734	406,413	207,679
4	Kids First of Florida	137,996	92,309	(45,687)
5	Family Support Services of North Florida	96,940	568,160	471,220
6	Saint Johns Board of County Commissioners	129,663	96,894	(32,769)
7	Community Partnership for Children	986,417	576,799	(409,618)
8	Kids Central	573,697	527,718	(45,979)
9	CBC of Central Florida	128,425	1,115,250	986,825
10	Heartland for Children	101,667	344,606	242,939
11	Community-Based Care of Brevard	529,329	834,895	305,566
12	CBC of Central Florida (Seminole)	353,339	350,733	(2,606)
13	Devereux Community Based Care	57,275	199,006	141,731
14	Eckerd (Pasco-Pinellas)	437,710	751,129	313,419
15	Sarasota Family YMCA	921,206	612,680	(308,526)
16	Eckerd (Hillsborough)	1,987,873	724,001	(1,263,872)
17	Children's Network of Southwest Florida	1,585,376	778,091	(807,285)
18	Childnet (Palm Beach)	88,389	292,907	204,518
19	ChildNet (Broward)	1,126,480	578,047	(548,433)
20	Our Kids	172,059	535,832	363,773
	<b>Total</b>	<b>10,000,000</b>	<b>10,000,000</b>	

Source: Analysis by Department of Children and Families

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends ss. 39.0138, 402.305, 409.175, 409.991, 435.07, 402.30501, 1002.59, 1002.55 and 1002.57 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Children, Families, and Elder Affairs on February 6, 2018:**

The CS:

- Clarifies that a Level 1 background screening is required when an exemption is approved for placement of a child;
- Adds two federal Child Care and Development Block Grant Act requirements, not previously addressed in state law, to align background screening requirements for child care personnel. The change will allow the department to utilize out-of-state criminal history records results for the past five years and requires fingerprint submissions for child care personnel to comply with s. 435.12, F.S;
- Adds drug offenses to the list of disqualifying offenses in Chapter 893 for child care personnel; and
- Adjusts a funding formula for the Community Based Care lead agencies.

- B. **Amendments:**

None.