

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 Appropriations Subcommittee on Health and Human Services

BILL: CS/SB 1360

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

SUBJECT: Child Welfare

DATE: February 20, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Preston</u>	<u>Hendon</u>	<u>CF</u>	<u>Fav/CS</u>
2.	<u>Sneed</u>	<u>Williams</u>	<u>AHS</u>	<u>Pre-meeting</u>
3.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

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 makes changes to the equity allocation model for the community-based care lead agencies (CBCs) that contract with the department, revising the formula that directs the allocation of any new core services funding, to be more closely aligned with factors that affect the CBC's performance.

The bill does not affect state revenues or expenditures.

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, the department 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.¹ 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.²

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.³

Community-Based Care Lead Agencies

Section 409.986, Florida Statutes, provides legislative intent for the department to contract with community-based care lead agencies (CBCs) to provide foster care and related services.⁴ These services include family support and family preservation, independent living, emergency shelter, facility-based or family-based foster care, dependency case management, adoptions, services for victims of sexual exploitation, postplacement supervision, 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.⁵

There are 19 CBCs statewide, which together serve the state's 20 judicial circuits. Section 409.991, F.S., requires the department to allocate funds to the CBCs based on an equity allocation model. The model is designed to allocate funds among these lead agencies based on the differing needs and services required by the particular population served by each organization.

¹ Section 39.0138, F.S.

² *Id.*

³ Section 39.0138(3), F.S.

⁴ *Id.*

⁵ Section 409.988, F.S.

The model includes “core services funding,” which is defined as all funds allocated to CBCs operating under contract with the DCF pursuant to s. 409.987, F.S., except funds appropriated for independent living, maintenance adoption subsidies, protective investigations training, or mental health wrap-around services; designated special projects; or those appropriated from nonrecurring funds.

Since Fiscal Year 2015-2016, recurring core services funding to each CBC has been based on the prior year’s recurring base funding.⁶ However, additional or new core services funding that becomes available is directed to be distributed based on the equity allocation model, as follows:

- 20 percent is allocated among all CBCs;
- 80 percent 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.⁷

The equity allocation model requires that any additional core services funding be distributed to the CBCs based on the following factors:

- Proportion of the child population;
- Proportion of the child abuse hotline workload; and
- 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.⁸

These factors are then used by the DCF for funding allocation purposes, with the 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.⁹

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.¹⁰ 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.¹¹ Screening must be conducted as provided in ch. 435, F.S., using Level 2 standards.¹²

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ Section 402.305, F.S.

¹¹ 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.

¹² *Id.*

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.¹³

Florida's Office of Early Learning (OEL)¹⁴ provides state-level administration for the School Readiness program. The School Readiness program is a state-federal partnership between OEL and the Office of Child Care of the United States Department of Health and Human Services.¹⁵ 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 subsidizes for child care services and early childhood education for low-income families and for children in protective services who are at risk of abuse, neglect, or abandonment, and for children with disabilities.

The program uses a variety of providers, such as licensed and unlicensed child care providers and public and nonpublic schools.¹⁶ The Department of Children and Families (DCF), Office of Child Care Regulation, 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.¹⁷

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 block grant, 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.¹⁸ 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 Registry¹⁹ or has been convicted of:

- Murder;

¹³ 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).

¹⁴ 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 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.

¹⁵ Part VI, ch. 1002, F.S.

¹⁶ Section 1002.88(1)(a), F.S.

¹⁷ See ss. 402.301-319, F.S., and part VI, ch. 1002, F.S.

¹⁸ Pub. Law No. 113-186, 128 Stat. 1971, Sec. 658H(b)

¹⁹ 42 U.S.C. s. 9858f(c)(1)(C).

- 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.²⁰

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.²¹

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 from a fingerprinting requirement to a household member with a physical, developmental, or cognitive disability that prevents him or her from being fingerprinted. The department is granted rulemaking authority to administer the provision. The section requires that if a fingerprint exemption is granted, a Level 1 background screening pursuant to s. 435.03, F.S., must be completed on the person who is granted the exemption.

The section also clarifies that “resisting arrest with violence” is a disqualifier for placement of a child in the home if the offense occurred within the previous five years rather than if the offense was committed at any time.

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 with federal requirements. The change allows the department to utilize results from out-of-state employment history checks, criminal history records, sexual predator and sexual offender registries, and child abuse and neglect registry of any state in which the person resided during 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-placing agencies, to define the term “severe disability” when determining whether a person should be exempt from being fingerprinted because of a physical, developmental, or cognitive disability. If a person is exempt from being fingerprinted, the department would be able to license the family foster home without fingerprinting all individuals in the home.

²⁰ 42 U.S.C. s. 9858f(c)(1).

²¹ Chapter 2106-2 38, Laws of Fla.

Section 4 amends s. 409.991, F.S., relating to allocation of funds for community-based care lead agencies, to modify the definition of the term “children in care” and revise the formula for the allocation of new core services funding to CBCs. Children in care will now include only new entries of children into out-of-home care over the most recent 24 months, instead of all children in out-of-home over the most recent 12 months. The term will also include children whose families have received family support services over the most recent 12 months. Children receiving in-home services will continue to be included over the most recent 12 months. The bill modifies the weights of children in care as 15 percent for family support services, 55 percent for children in out-of-home care, and 30 percent for children in in-home care.

The bill directs the department to distribute new core services funding to CBCs pursuant to the following amended equity allocation model:

- 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 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.

And lastly, the bill changes the distribution of new core services funding as follows:

- 70 percent is allocated among all CBCs;
- 30 percent is allocated to CBCs that are currently funded below their equitable share. Funds are weighted based on each CBC’s proportion of total funding below their 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 Ch. 893, F.S., 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 bill.

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 bill.

Section 8 amends s. 1002.55, F.S., relating to school-year prekindergarten programs delivered by private providers, to conform references to changes made by the bill.

Section 9 amends s. 1002.57, F.S., relating to prekindergarten director credentials, to conform references to changes made by the bill.

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:

CS/SB 1360 revises the equity allocation model used for distributing funds among the CBCs. The bill will have an indeterminate fiscal impact on the individual CBCs. In the event that new core services funding is made available for the CBCs, it is expected that some will receive more funding than they would have under the previous formula, while others would receive less. The equity allocation model only affects how new core services funding will be distributed. As an example, if a new appropriation of \$10 million was made for core services funding, the following chart shows the difference between the distribution under current law and under the bill. Conversely, if new core services funding was not appropriated, the distribution of core services funding to the CBCs would remain unchanged from the previous year.

CBC Funding Formula Changes with \$10 million of New Core Services Funding						
	A	B	C	C-B	A+C	
	Base Core Services Funding	New Core Services Funding			Total Core Services Funding as Proposed	
		Current Allocation Formula	Proposed Formula	Difference Increase/ (Decrease)		
Community Based Care Lead Agencies						
1	Lakeview Center (Families First Network)	34,290,074	105,127	458,847	353,720	34,748,921
2	Big Bend CBC	25,580,295	66,731	261,282	194,551	25,841,577
3	Partnership for Strong Families	22,519,522	434,857	358,068	(76,789)	22,877,590
4	Kids First of Florida	6,469,036	19,266	72,118	52,852	6,541,154
5	Family Support Services of North Florida	35,803,739	111,134	729,823	618,689	36,533,562
6	St Johns Board of County Commissioners (Family Integrity Program)	4,340,311	87,724	111,670	23,946	4,451,981
7	Community Partnership for Children	24,518,476	76,392	541,351	464,959	25,059,827
8	Kids Central	38,069,464	581,653	666,357	84,704	38,735,821
9	CBC of Central Florida	54,790,601	162,962	603,066	440,104	55,393,667
10	Heartland for Children	32,972,143	102,914	342,961	240,047	33,315,104
11	CBC of Brevard (Brevard Family Partnerships)	18,724,431	785,596	893,866	108,270	19,618,297
12	Eckerd (Pasco-Pinellas)	45,099,623	1,681,385	1,005,370	(676,015)	46,104,993
13	Sarasota Family YMCA	21,335,346	1,090,033	684,784	(405,249)	22,020,130
14	Eckerd (Hillsborough)	53,515,735	1,868,890	642,722	(1,226,168)	54,158,457
15	Children's Network of Southwest Florida	32,319,498	2,343,016	987,470	(1,355,546)	33,306,968
16	Devereux CBC	22,167,758	68,521	229,813	161,292	22,397,571
17	Childnet (Palm Beach)	32,340,871	85,128	291,121	205,993	32,631,992
18	ChildNet (Broward)	56,635,267	173,298	602,311	429,013	57,237,578
19	Our Kids of Miami and Monroe	73,469,270	155,373	517,000	361,627	73,986,270
	New Core Services Funding Total	634,961,460	10,000,000	10,000,000	-	644,961,460
	Equity Formula Factors (weighted):		Current	Proposed		
	Percentage of Hotline Workload		15%	35%		
	Percentage of Children in Care		80%	60%		
	Percentage of population		5%	5%		
	Total		100%	100%		
	Allocation of New Funding (weighted):					
	Percentage to All CBCs		20%	70%		
	Percentage to Below Equity		80%	30%		
	Total		100%	100%		
	Child in Care (weighted):					
	In-Home		40%	30%		
	Out-of-Home Care (*)		60%	55%		
	Family Support Services		0%	15%		
	Total		100%	100%		
	* Out-of-home care weighted formula is changing from the number of children in out-of-home care during the last 12-month period to the number of children who "enter" out-of-home care during the last 24-month period.					

Collectively, CBC lead agencies were appropriated \$878 million for the 2017-18 fiscal year. Funds are provided for core services as well as for specific programs such as maintenance adoptions subsidies, independent living, and others. The amount of core services funding for Fiscal Year 2017-18 is included in the chart below, along with the projected expenditures for the year. Several CBCs are projected to have a funding deficit for the year. The change in the equity allocation model and its impact on the CBCs for Fiscal Year 2018-19 may provide some assistance to the CBCs if new core services

funding were to be appropriated. At present, Senate Bill 2500, the Senate’s General Appropriations Act, does not provide an increase for CBC core services funding.

CBC Funding and Projected Expenditures for Fiscal Year 2017-18:						
	Lead Agency (CBC)	Core Services Funding, as Proposed	Carry Forward Balance at 7/1/2017	Total Available for Core Services	Projected Expenditures	Projected Surplus/ (Deficit)
1	Lakeview Center (Families First)	\$ 34,748,921	\$ (335,809)	\$ 34,413,112	\$ 34,354,262	\$ 58,850
2	Big Bend CBC	25,841,577	475,457	26,317,034	26,948,787	(631,753)
3	Partnership for Strong Families	22,877,590	791,216	23,668,806	23,834,534	(165,728)
4	Kids First of Florida	6,541,154	2,211,230	8,752,384	6,359,075	2,393,309
5	Family Support Services of North Florida	36,533,562	3,245,015	39,778,577	38,607,796	1,170,781
6	St Johns Board of County Commissioners (Family Integrity)	4,451,981	47,667	4,499,648	4,599,449	(99,801)
7	Community Partnership for Children	25,059,827	(120,887)	24,938,940	25,924,237	(985,297)
8	Kids Central	38,735,821	525,144	39,260,965	41,201,380	(1,940,415)
9	CBC of Central Florida	55,393,667	(685,066)	54,708,601	56,331,476	(1,622,875)
10	Heartland for Children	33,315,104	2,621,067	35,936,171	33,985,259	1,950,912
11	CBC of Brevard (Brevard Family Partnerships)	19,618,297	(196,437)	19,421,860	19,662,875	(241,015)
12	Eckerd (Pasco-Pinellas)	46,104,993	(195,642)	45,909,351	49,168,798	(3,259,447)
13	Sarasota Family YMCA	22,020,130	21,398	22,041,528	25,489,660	(3,448,132)
14	Eckerd (Hillsborough)	54,158,457	(419,724)	53,738,733	57,342,155	(3,603,422)
15	Children’s Network of Southwest Florida	33,306,968	2,652,269	35,959,237	36,419,221	(459,984)
16	Devereux CBC	22,397,571	974,362	23,371,933	22,234,210	1,137,723
17	Childnet (Palm Beach)	32,631,992	(1,612,908)	31,019,084	31,933,396	(914,312)
18	ChildNet (Broward)	57,237,578	(5,911,972)	51,325,606	58,039,744	(6,714,138)
19	Our Kids of Miami-Dade & Monroe	73,986,270	4,011,050	77,997,320	75,199,724	2,797,596
	Total	\$644,961,460	\$ 8,097,430	\$653,058,890	\$667,636,038	\$ (14,577,148)

Source: FY 2017-18 budget projections provided by CBCs; Analysis by Department of Children and Families. Analysis dated January 29, 2018²².

C. Government Sector Impact:

The bill does not affect state revenues and expenditures.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

²² On file with the Senate Appropriations Subcommittee on Health and Human Services.

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 changes allow the department to use out-of-state criminal history records results for the past five years, and require fingerprint submissions for child care personnel to comply with s. 435.12, F.S;
- Adds drug offenses to the list of disqualifying offenses in Ch. 893, F.S., for child care personnel; and
- Adjusts the formula for the allocation of funding for the community-based care lead agencies.

- B. **Amendments:**

None.