

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

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Prepared By: Children, Families, and Elder Affairs Committee

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BILL: CS/SB 106

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

SUBJECT: Child Care Facilities

DATE: February 7, 2007

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Goltry</u>	<u>Jameson</u>	<u>CF</u>	<u>Fav/CS</u>
2.	_____	_____	<u>CJ</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

Committee Substitute for Senate Bill 106 requires that beginning on July 1, 2008, all fingerprints of child care personnel employed in a licensed child care facility that are submitted for level 2 screening must be submitted electronically and retained by the Department of Law Enforcement (FDLE). The Department of Law Enforcement is required to search all incoming arrest fingerprints against the retained fingerprints of child care personnel and inform the Department of Children and Family Services (DCF or the department) of an identified match. The bill provides that child care personnel re-employed after July 1, 2008 who have not had fingerprints electronically submitted must do so. By December 1, 2009, child care personnel whose fingerprints are not yet retained by FDLE must be re-fingerprinted and must meet level 2 screening requirements. Each person who is employed in a child care facility must meet level 2 screening requirements, including a federal criminal history check by the Federal Bureau of Investigation (FBI), every five years.

This bill substantially amends section 402.305, F.S.

## II. Present Situation:

### Child Care Licensing Standards

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

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

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

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

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

### **Components of Background Screening**

Section 402.305(2)(a), F.S., requires that child care personnel establish good moral character based on background screening using the level 2 standards set forth in s. 435.04, F.S.

For purposes of child care, "screening" is defined in s. 402.302(13), F.S., as the act of assessing the background of child care personnel and includes, but is not limited to:

- Employment history checks,
- Local criminal records checks through local law enforcement agencies,
- Fingerprinting for all purposes and checks in this subsection,
- Statewide criminal records checks through the Department of Law Enforcement, and
- Federal criminal records checks through the Federal Bureau of Investigation.

A "level 2 screening" is defined by s. 435.04, F.S., as a security background investigation that includes, but need not be limited to:

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

The security background investigations conducted under s. 435.04, F.S., must ensure that the person subject to the background screening has not been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any of the offenses prohibited under s. 435.02, F.S. Under penalty of perjury, all employees in such positions of trust or responsibility shall attest to meeting the requirements for qualifying for employment and agreeing to inform the employer immediately if convicted of any of the disqualifying offenses while employed by the employer.

### **Re-Screening**

Currently, Florida law does not address the frequency of re-screening for child care personnel. Section 65C-22.006(5), F.A.C., however, provides that a background screening conducted for purposes of child care employment is valid for five years, after which a re-screening that includes, at a minimum, a statewide criminal records check through the Florida Department of Law Enforcement and a local criminal records check must be conducted. The same code

provision requires that child care personnel be re-screened (using the same level of screening that was required upon initial employment) upon a break in employment that exceeds 90 days except for child care personnel who take a leave of absence (such as maternity leave, extended sick leave, seasonal child care programs).

### **III. Effect of Proposed Changes:**

The bill requires that beginning on July 1, 2008, all fingerprints of child care personnel employed in a licensed child care facility that are submitted for level 2 screening must be submitted electronically and retained by FDLE. Beginning July 1, 2008, FDLE will search all incoming arrest fingerprints against the retained fingerprints of child care personnel and inform DCF of any identified match. The department must notify FDLE of any person no longer employed by a child care facility. In addition, FDLE is directed to adopt a rule setting the amount of the annual fee for searches that will be charged to DCF and establishing procedures for retention of fingerprints and dissemination of search results.

The bill provides that child care personnel re-employed after July 1, 2008 who have not had fingerprints electronically submitted must do so. By December 1, 2009, child care personnel whose fingerprints are not yet retained by FDLE must be re-fingerprinted and must meet level 2 screening requirements. Each person who is employed in a child care facility must meet level 2 screening requirements, including a federal criminal history check by the Federal Bureau of Investigation, every five years.

This legislation would take effect July 1, 2007.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

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

None.

#### **C. Trust Funds Restrictions:**

None.

### **V. Economic Impact and Fiscal Note:**

#### **A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Child care personnel are currently assessed a \$32.00 fee for fingerprinting for purposes of the required FDLE and FBI background check, in addition to a fee for a local law enforcement background check (which varies from county to county). This fee is paid directly to FDLE. The payment with the fingerprint submission covers the first year of retention. Subsequent year charges would be \$6 annually per applicant.

**C. Government Sector Impact:**

The department estimates that the annual cost to DCF for the approximately 91,500 child care personnel records to be retained and searched against incoming arrest records will be \$549,000. (\$6 per record x 91,500 records)

The FDLE estimates that it would require 3 FTE's - 2 Criminal Justice Customer Service Specialists and 1 Fingerprint Analyst to implement the requirements of this bill. Funding for these positions will come from the FDLE Operating Trust Fund where the fees for this service are being generated so FDLE will need authority to spend from the trust fund as opposed to General Revenue dollars. Recurring revenues from new child care personnel criminal history record checks are estimated to be \$256,200 (32,025 new child care personnel x \$8) and \$549,000 for the retention fees (\$6 per child care personnel for retention x 91,500).

Non-recurring revenues would be \$ 732,000 for 91,500 criminal history record check requests for child care facilities at \$8 each. Recurring expenditures for the 3 FTEs would be \$144,739; non-recurring expense for these positions would be \$39,178. An upgrade to the current fingerprint retention server to accommodate additional data processing and storage requirements would be \$13,000.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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

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

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