

**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 Education Pre-K - 12 Committee

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BILL: SPB 7050

INTRODUCER: For consideration by the Education Pre-K - 12 Committee

SUBJECT: Criminal Background Screenings

DATE: February 15, 2009      REVISED: \_\_\_\_\_

|    | ANALYST         | STAFF DIRECTOR | REFERENCE | ACTION             |
|----|-----------------|----------------|-----------|--------------------|
| 1. | deMarsh-Mathues | Matthews       | ED        | <b>Pre-meeting</b> |
| 2. | _____           | _____          | _____     | _____              |
| 3. | _____           | _____          | _____     | _____              |
| 4. | _____           | _____          | _____     | _____              |
| 5. | _____           | _____          | _____     | _____              |
| 6. | _____           | _____          | _____     | _____              |

**I. Summary:**

The bill provides a more uniform standard for background screening of child care personnel and Voluntary Prekindergarten (VPK) personnel, which includes good moral character and the following:

- Electronic submission of fingerprints to the Florida Department of Law Enforcement (FDLE) for state criminal history records checks and to the Federal Bureau of Investigation (FBI) for federal criminal history records check at initial employment and every 5 years after employment; and
- Level 2 screening pursuant to s. 435.04, F.S., prior to employment.

The bill also:

- Prohibits personnel who fail to meet the background screening requirements from being employed in a position that has direct contact with children;
- Eliminates a waiver from disqualification for employment for certain offenses for child care and VPK providers;
- Requires VPK personnel, child care personnel, and instructional and noninstructional personnel in public schools to inform his or her employer within 48 hours after being charged with or convicted of any disqualifying offense;
- Requires a local law enforcement agency to inform an employer if an employee of a VPK provider or child care facility is charged with a felony or with a misdemeanor involving the abuse of a minor child or the sale or possession of a controlled substance;

- Repeals the 90-day break in service exemption for VPK personnel and instructional personnel in public schools;
- Prohibits a VPK provider from hiring and requires the provider to terminate a substitute instructor who fails to meet the screening requirements;
- Prohibits a substitute instructor from holding a revoked or suspended educator certificate;
- Prohibits the Department of Children and Family Services (DCF) from granting exemptions from disqualification for employment of child care and VPK employees, if the employees are convicted of any of the offenses in s. 1012.315, F.S.;
- Requires the DCF to screen the results of state criminal history records checks for VPK directors who are employed by a VPK provider that is an exempt faith-based facility or exempt private school;
- Requires VPK directors to screen the results of state criminal history records checks for VPK instructors who are employed by a VPK provider that is an exempt faith-based facility or exempt private school;
- Authorizes the DCF or local child care licensing agencies to make site visits to private VPK providers that are exempt faith-based facilities or exempt private schools to verify that all VPK background screening requirements are met;
- Provides that the background screening requirements for VPK personnel in public schools do not supersede more stringent requirements for instructional and noninstructional personnel in public schools; and
- Provides that a public school or private VPK provider is ineligible to deliver the VPK program if the school district or provider continues to employ a person who fails to meet the screening requirements.

This bill substantially amends ss. 402.302, 402.3025, 402.305, 1002.55, 1002.61, 1002.63, 1012.465, 1012.56, and 1012.797, F.S.; creates ss. 402.3056, 402.3132, and 1002.56, F.S.; and repeals s. 402.3057, Florida Statutes.

## II. Present Situation:

### **Voluntary Prekindergarten Education Program**

In 2002, the State Constitution was amended to require the establishment of a prekindergarten program for every 4-year-old child in the state which is voluntary, high quality, free, and delivered according to professionally accepted standards.<sup>1</sup> The Legislature created the VPK program, which became effective in the 2005 school year, and provided the parents of eligible children a choice among three program options:<sup>2</sup>

- A school-year VPK program delivered by a private prekindergarten provider<sup>3</sup> that has a director<sup>4</sup> with a VPK director credential and that has for each class at least one instructor

<sup>1</sup> Art. IX, s. 1(b) and (c) of the State Constitution.

<sup>2</sup> ch. 2004-484, L.O.F.

<sup>3</sup> Section 1002.51(4), F.S., defines a “prekindergarten instructor” as a teacher or child care personnel as defined in s. 402.302, F.S., who provides instruction to students in the VPK program.

<sup>4</sup> Section 1002.51(3), F.S., defines a “prekindergarten director” as an onsite person ultimately responsible for the overall operation of a private prekindergarten provider or, alternatively, of the provider’s prekindergarten program, regardless of whether the person is the owner of the provider.

- who holds at least a child development associate (CDA) or equivalent state-approved credential and who completes a 5-clock-hour course in emergent literacy training;<sup>5</sup>
- A summer VPK program delivered by a public school or private prekindergarten provider and that has for each class at least one Florida-certified teacher or an instructor who holds a bachelor's or higher degree in specified early learning degree programs;<sup>6</sup> or
  - A school-year VPK program delivered by a public school that has for each class at least one instructor who holds at least a CDA or equivalent state-approved credential and who completes a 5-clock-hour course in emergent literacy training.<sup>7</sup>

The VPK program is administered at the local level by school districts and early learning coalitions. At the state level, the Department of Education (DOE) administers the accountability requirements of the program and the Agency for Workforce Innovation (AWI) administers the operational requirements of the program.<sup>8</sup> The AWI's specific operational requirements are enumerated in s. 1002.75, F.S., and include determining the eligibility of private providers to deliver the VPK program.

#### ***Eligible Public School VPK Providers***

School districts must administer a summer VPK program and may administer a school-year program.<sup>9</sup> The district school board determines which public schools in the district will deliver the program during the summer and school year.

#### ***Eligible Private VPK Providers<sup>10</sup>***

To participate in the program, a private provider must register with the early learning coalition and must be a licensed child care facility, a licensed family day care home, a licensed large family child care home, a private school exempt from licensure,<sup>11</sup> or a faith-based child care provider exempt from licensure. In addition, a private prekindergarten provider must:

- Be accredited by an accrediting association that is a member of the National Council for Private School Accreditation, the Commission on International and Trans-Regional Accreditation, or the Florida Association of Academic Nonpublic Schools; has written accreditation standards that meet or exceed the state's licensing requirements under ss. 402.305, 402.313, or 402.3131, F.S.; and requires at least one on-site visit to the provider or school before accreditation is granted;
- Hold a current Gold Seal Quality Care designation;<sup>12</sup> or
- Be licensed as a child care facility, a family day care home, or a large family day care home and demonstrate to the early learning coalition that the provider meets each of the requirements of the VPK program (e.g., VPK instructor and director credentials,

<sup>5</sup> s. 1002.55, F.S. For classes of 11 or more students, there is a second instructor who is not required to have the credentials or training.

<sup>6</sup> s. 1002.61, F.S.

<sup>7</sup> s. 1002.63, F.S. For classes of 11 or more students, there is a second instructor who is not required to have the credentials or training.

<sup>8</sup> ss. 1002.73 and 1002.75, F.S.

<sup>9</sup> ss. 1002.61(1) and s. 1002.63, F.S.

<sup>10</sup> s. 1002.55, F.S.

<sup>11</sup> s. 402.3025(2)(c), F.S.

<sup>12</sup> s. 402.281, F.S.

background screenings, minimum and maximum class sizes, and a developmentally appropriate curriculum).

All VPK providers must register with an early learning coalition and comply with federal antidiscrimination requirements.<sup>13</sup>

For the 2006-2007 summer and school year programs, there were 4,752 VPK providers.<sup>14</sup> Most of the VPK providers are child care facilities. There were approximately 5,000 VPK summer and school year programs for 2006-2007.<sup>15</sup> During 2006-2007, 123,567 children were enrolled in the VPK summer and school year programs. Of all four-year-olds in the state, 54.7 percent participated in the 2006-2007 VPK program.<sup>16</sup> For 2007-2008, there were 17,953 instructors (14,932 private instructors and 3,021 public school instructors) and 5,059 directors,<sup>17</sup>

### ***Child Care Facilities***

Current law requires the licensure of child care facilities and large family child care homes<sup>18</sup> and the licensure or registration of family day care homes.<sup>19</sup> The licensure standards provide for the minimum requirements for child care personnel, including training, professional credentials, and background screening.<sup>20</sup> While the law exempts faith-based providers and certain private schools from licensure, these entities must meet background screening requirements.<sup>21</sup> The licensure or registration of child care providers is administered by the DCF<sup>22</sup> or, in six counties (Brevard, Broward, Hillsborough, Palm Beach, Pinellas, and Sarasota),<sup>23</sup> by local licensing agencies that have licensing standards meeting or exceeding the state's minimum standards.<sup>24</sup>

For purposes of child care, background screening applies to child care personnel and volunteers.<sup>25</sup> The law defines "child care personnel" to include:<sup>26</sup>

- All owners, operators, employees, and volunteers working in a child care facility;

<sup>13</sup> ss. 1002.53(6)(c) and 1002.75(2), F.S., and 42 U.S.C. s. 2000d.

<sup>14</sup> AWI, August 29, 2008. Of these providers, 3,622 were licensed child care facilities, 72 were licensed family day care homes, 32 were licensed large family child care homes, and 852 were public schools located in 53 school districts. The number of faith-based providers and private schools exempt from licensure by the DCF were 160 and 14, respectively. The number of family day care home providers and child care facilities may include Gold Seal providers which may not be licensed. Faith-based providers that chose to be licensed are included in the number of VPK child care facility providers.

<sup>15</sup> AWI and DOE, August 2008.

<sup>16</sup> Office of Economic and Demographic Research, VPK Estimating Conference Report, April 7, 2008.

<sup>17</sup> AWI, August 27, 2008. These are estimated personnel.

<sup>18</sup> ss. 402.305, 402.305(17), 402.3131, F.S., respectively.

<sup>19</sup> ss. 402.312, and 402.313, F.S.

<sup>20</sup> s. 402.305(2), F.S.

<sup>21</sup> ss. 402.316 and 402.3025, F.S. Faith-based facilities may choose to be licensed, but cannot withdraw from licensure once they are licensed.

<sup>22</sup> As of August 25, 2008, there were 235,246 infants and children in 87 percent of the operational child care facilities licensed by the DCF.

<sup>23</sup> DCF, July 25, 2008.

<sup>24</sup> ss. 402.306 and 402.307, F.S.

<sup>25</sup> s. 402.302(3), F.S. A volunteer who assists on an intermittent basis for less than 40 hours per month is not included, provided that he or she is under the direct and constant supervision of a person who is required to be screened.

<sup>26</sup> *Id.*

- 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 facility is located in or adjacent to the home of the operator or if the family member of, or person residing with, the facility operator has any direct contact with the children in the facility during its hours of operation;<sup>27</sup> and
- Persons who work in child care programs which provide care for children 15 hours or more each week in public or private schools, summer day camps, family day care homes, or those programs otherwise exempt under s. 402.316, F.S.

### **Recent Reports on Background Screening**

#### *Senate Interim Project 2009-110*<sup>28</sup>

The report reviewed the background screening requirements for child care personnel and personnel employed by VPK providers and noted that the requirements for personnel in child care facilities, day care homes, exempt faith-based child care facilities, and exempt private schools are different from those required for personnel in VPK programs, in terms of the standards for review, the timing of the review, exemptions, and cost. The report suggested changes for consideration by the Legislature. The findings included the following:

- Both child care personnel<sup>29</sup> and VPK instructors<sup>30</sup> must be of good moral character and are subject to background screening using the level 2 standards in s. 435.04, F.S.
- The DCF's interpretation of good moral character for private VPK instructors is based solely on the disqualifying offenses in s. 435.04, F.S.<sup>31</sup> The department applies the good moral character standard that is used for child care personnel to private VPK instructors, even though the statutory requirements are different.<sup>32</sup> The law provides that the criteria for employment as a VPK instructor are both good moral character and no disqualifying offenses.<sup>33</sup>
- All instructors in VPK programs delivered by private providers and public schools must be screened prior to employment.<sup>34</sup> Child care personnel must submit fingerprints within ten working days of employment in a position which requires Level 2 screening.<sup>35</sup> Current law does not specifically subject VPK directors to the same screening requirements

<sup>27</sup> Members of an operator's family or persons residing with the operator who are between the ages of 12 years and 18 years are not required to be fingerprinted but must be screened for delinquency records.

<sup>28</sup> *Review the Criminal Background Screening Requirements for Personnel Employed by Voluntary Prekindergarten Providers*, September 2008.

<sup>29</sup> ss. 402.302(3), 402.305(2), 402.3025(2), 402.3055, 402.313(3), 402.3131(2), 402.316(1), F.S. Child care personnel must establish good moral character based on the background screening using the level 2 standards in s. 435.04, F.S. Pursuant to s. 402.302(13), F.S., screening includes local criminal records checks through local law enforcement agencies and employment history checks. AWI, through a provider agreement, requires local criminal history records checks.

<sup>30</sup> ss. 1002.55, 1002.61, and 1002.63, F.S.

<sup>31</sup> DCF, August 26, 2008.

<sup>32</sup> ss. 402.305(2), 1002.55, and 1002.61, F.S.

<sup>33</sup> ss. 1002.55, 1002.61, and 1002.63, F.S.

<sup>34</sup> ss. 1002.55(3)(d), 1002.61(5), and 1002.63(6), F.S.

<sup>35</sup> DCF, July 22, 2008. According to the DCF, the 10 working-day requirement is based on the provisions of s. 435.05(1)(a) and (c), F.S. Family day care operators and household members must be screened prior to licensure or registration. Broward's local licensing agency requires all child care personnel, including VPK personnel, to be in receipt of the FBI and FDLE results prior to employment in a child care setting.

provided for instructors. Rather, the DCF considers the directors to be child care personnel who are subject to the child care screening requirements.<sup>36</sup>

- All VPK instructors are subject to a re-screening every five years. Child care personnel and VPK directors are only subject to FDLE, local law enforcement, and employment checks.<sup>37</sup> The 5-year FDLE checks for child care personnel are not based on fingerprints.<sup>38</sup> Instead, the checks consist of a search by name, date of birth, race, sex, and social security number.<sup>39</sup>
- The majority of fingerprints submitted by DCF providers are in hardcopy form, while all school districts electronically submit fingerprints.
- For locally-licensed facilities that participate in the VPK program, the role of local child care licensing agencies varies with respect to compliance with the background screening requirements for VPK personnel, although the agencies are required to meet or exceed the state's minimum standards.<sup>40</sup>

#### *Auditor General*<sup>41</sup>

The Auditor General noted that AWI did not establish procedures to be followed by early learning coalitions and district school boards in evaluating instructor credentials, affidavits of good moral character, and level 2 screening. Additionally, the audit findings included the following:

- Verification of level 2 screening results was not properly documented prior to the VPK start date.
- As of April 10, 2008, AWI had not developed procedures for coalitions and district school boards to use when reviewing student attendance records and verifying VPK provider compliance with the law.

The report recommended that AWI, in consultation with DOE and DCF, provide technical assistance to the coalitions and district school boards regarding acceptable documentation for and timely review of VPK instructor background checks, including good moral character and level 2 screening. Without procedures for the verification of current information regarding instructors, the AWI cannot provide assurances that, from the VPK start date, VPK students receive instruction in a safe environment from qualified teachers.

<sup>36</sup> DCF, August 20, 2008, and September 5, 2008. The DCF indicates that VPK directors and instructors are now subject to the same background screening requirements (i.e., prior employment screening and FBI fingerprint-based rescreening every 5 years). See DCF draft bill analysis, received February 13, 2009.

<sup>37</sup> DCF, July 22, 2008. Rule 65C-22.006(4)(d), F.A.C.

<sup>38</sup> DCF, July 22, 2008.

<sup>39</sup> DCF, August 20, 2008.

<sup>40</sup> ss. 402.306 and 402.307, F.S.

<sup>41</sup> *Operational Audit of the Voluntary Prekindergarten Education Program Administered by the Agency for Workforce Innovation, Report No. 2009-003*, July 1, 2005, through February 28, 2007, and selected actions taken through February 2008.

### III. Effect of Proposed Changes:

#### Background Screening Requirements

The bill provides a more uniform standard for background screening of child care personnel who work in child care settings and VPK personnel with direct student contact. The standard includes the following:

- Good moral character;<sup>42</sup>
- Electronic submission of fingerprints to the FDLE for state criminal history records checks and to the FBI for federal criminal history records check at initial employment and every 5 years after employment; and
- Level 2 screening pursuant to s. 435.04, F.S., prior to employment.

If a person's fingerprints are not retained, he or she must electronically resubmit prints.

These changes may strengthen the current child care background rescreening requirements by requiring FBI fingerprint checks rather than the less reliable name-based checks. Because the FBI has fingerprint-based records from all states and territories, it can identify a person's record created in states other than those of self-disclosed past residences or where the employment is located. The FBI records are based on the positive identification of a person to a record through fingerprints, significantly reducing the risks to privacy (false positives) and security (false negatives) posed by strictly name-based searches.<sup>43</sup> Additionally, by submitting all fingerprints to FDLE electronically, the time it takes to obtain a background check may be reduced. The paper submission of fingerprints substantially slows the process for completing a check, even if they are later digitally scanned, as they typically involve first transmitting the prints through the mail.<sup>44</sup>

The background screening requirements for VPK personnel in public schools do not supersede more stringent requirements for instructional and noninstructional personnel in public schools. The DCF may not adopt different background screening standards for facilities that serve children in different age groups.

The bill repeals s. 402.3057, F.S., which currently exempts child care instructors and other personnel from rescreening or re-fingerprinting for child care purposes, if they meet the following conditions: previous screening or fingerprinting without a break in employment for more than 90 days; attesting under penalty of perjury to the completion of fingerprinting or screening requirements; meeting the standards for good moral character; and complying with the law.

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<sup>42</sup> The DCF must adopt rules to define "good moral character" and specify any additional screening requirements.

<sup>43</sup> *The Attorney General's Report on Criminal History Background Checks*, U.S. Department of Justice, Office of the Attorney General, June 2006.

<sup>44</sup> *Id.*

**Exemptions from Employment Disqualification**

The law currently allows the DCF to grant exemptions to the disqualifying offenses in s. 435.04, F.S., from working with children or persons with developmental disabilities.<sup>45</sup> An exemption from employment disqualification gives individuals, who are ineligible for employment due to their criminal history, the opportunity to work with children in a child care facility or for a child care provider despite having a criminal history. Individuals applying for an exemption have the burden of providing sufficient evidence of rehabilitation, taking into consideration the length of time between the disqualifying event and the request for an exemption, the nature of harm to the victim, and any other history or circumstances indicating that employment can be continued without risk of harm.<sup>46</sup> The number of exemptions granted by the DCF for persons to work in child care facilities and family day care homes for 2005-2006 and 2006-2007 were 118 and 125, respectively.<sup>47</sup>

The bill significantly narrows the exemptions from employment disqualification that the DCF may grant for child care employees. The DCF may not grant exemptions to employees of VPK providers and child care employees who are convicted of any of the offenses in s. 1012.315, F.S.<sup>48</sup> A person who fails to meet the screening requirements is ineligible for any position that has direct contact with children, if he or she has been convicted of any of the offenses in s. 1012.315, F.S.

**Enforcement**

A person who fails to meet the screening requirements must be denied employment or terminated pursuant to s. 435.06, F.S. The bill also provides that a public school or private VPK provider is ineligible to deliver the VPK program if the school district or provider continues to employ a person who fails to meet the screening requirements.

Each person who is required to be screened under ss. 402.3056 or 1002.56, F.S., upon penalty of perjury, must inform his or her employer within 48 hours after being charged with or convicted of any disqualifying offense. The bill amends the current requirements for instructional and noninstructional school district personnel to require employer notification of charges of any disqualifying offenses.

A local law enforcement agency must timely notify the appropriate owner or operator of a child care facility, private school, summer day camp, family day care home, large family child care home, or a private VPK provider of the name and address of any employee who is charged with a felony or with a misdemeanor involving the abuse of a minor child or the sale or possession of

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<sup>45</sup> ss. 402.305(2)(b) and 435.07, F.S.

<sup>46</sup> The disqualifying felony offenses, exemption review criteria, evidentiary standard, and burden of proof are set forth in ss. 435.04 and 435.07, F.S. An agency's decision is subject to a hearing under ch. 120, F.S.

<sup>47</sup> DCF, August 20, 2008. In some cases, separate exemptions were granted for multiple offenses by the same person. Exemptions were granted from disqualifying felony offenses that include murder, aggravated assault, aggravated battery, sexual battery, battery on a minor, domestic violence, arson, and kidnapping. Most exemptions were granted for persons to work in child care facilities. The DCF was unable to disaggregate the number of exemptions granted for VPK personnel.

<sup>48</sup> This includes felony offenses prohibited under specific statutes, specific misdemeanors, and any delinquent act that qualified or would have qualified an individual for inclusion on the Registered Juvenile Sex Offender List under s. 943.0435(1)(a)1.d., F.S.



a controlled substance. The notification must include the specific charge for which the employee was arrested.

The DCF is tasked with screening the results of state criminal history records checks for a VPK director who is employed by a private VPK faith-based provider or private school that is exempt from licensure by the DCF. In turn, the director must screen the results of state criminal history records checks for private VPK instructors. Currently, the DCF receives and screens the results of FBI checks for directors and instructors in exempt faith-based facilities and exempt private schools.<sup>49</sup> The law is silent as to what entity screens and verifies the state and local results.

The bill allows the DCF or local child care licensing agencies to make site visits to a private VPK provider that is a private school or a faith-based child care provider to ensure compliance with the background screening requirements. The bill allows the DCF or local licensing agency to inspect records to verify compliance. Currently, the DCF inspects all licensed child care facilities and day care homes that participate in the VPK program for compliance with the VPK screening requirements, except for those facilities that are subject to local licensure in six counties and exempt faith-based facilities and private schools.<sup>50</sup> Exempt faith-based facilities annually attest to compliance with all background screening requirements.<sup>51</sup> The DCF indicates that it is only authorized by law to inspect these exempt facilities when there is a complaint alleging a violation of the screening requirements.<sup>52</sup>

#### **Other Personnel Requirements**

The bill prohibits a VPK substitute instructor from holding a revoked or suspended educator certificate to conform to the current requirement for VPK instructors.

#### **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.

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<sup>49</sup> DCF, September 5, 2008.

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

**B. Private Sector Impact:**

The bill requires the electronic (livescan) submission of fingerprints for initial screening and every 5 years after employment. The DCF notes that approximately 55 percent of the 118,150 background screening requests processed by the department in 2008 were submitted via hardcopy.<sup>53</sup> Approximately 45 percent of the prints were electronically submitted.

The current cost for initial screening of child care and private VPK personnel using a hardcopy print includes a fee of \$38.25 (\$8 for an FDLE check and \$30.25 for an FBI check), while the cost of using livescan includes a fee of \$27.25 (\$8 for an FDLE check and \$19.25 for an FBI check). The hardcopy rescreening fee is \$8 for child care personnel and \$38.25 for private VPK instructors. The current rescreening requirements for child care personnel do not include an FBI fingerprint-based criminal history record check. Instead, the personnel are subject to a state descriptive data search.

According to DCF, the repeal of the 90-day break in service provision will subject child care providers to more frequent rescreening and additional fees.<sup>54</sup> The rescreening fee for child care personnel will increase from \$8<sup>55</sup> for a name-based FDLE check to \$27.25 for a fingerprint-based FDLE check (\$8) and FBI check (\$19.25), which is the fee for private VPK instructors who electronically submit prints. The DCF indicated that the current fee of \$8 for summer day camp employees will increase to \$27.25.

There may also be administrative fees associated with the electronic submission of prints for VPK and child care personnel. Electronic services are available through some local law enforcement agencies, other governmental entities, and private service providers. The DCF noted that some private providers charge an additional fee that can range from \$17.75 to \$37.75.

**C. Government Sector Impact:**

There may be some costs associated with the employer notification requirements for local law enforcement agencies. To the extent that local licensing agencies do not have more stringent background screening requirements than are specified in chapter 402, F.S., or do not make site visits to exempt facilities that participate in the VPK program, they may incur indeterminate costs.

**The DCF provided the following information:<sup>56</sup>**

The Caretaker Screening Information System (CSIS) will need to be enhanced to include the additional disqualifying offenses in s. 1012.315, F.S., if the legislation is intended to include these offenses for all child care personnel. The programming costs, however, are expected to be negligible. Any additional workload to the regional background screening

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<sup>53</sup> DCF draft bill analysis, received February 13, 2009.

<sup>54</sup> *Id.*

<sup>55</sup> The fee for FDLE checks for DCF approved providers (\$8) is set forth in s. 943.053(3)(b), F.S. Unless otherwise specified, the law requires all others to be charged \$24.

<sup>56</sup> DCF draft bill analysis, received February 13, 2009.

units that are a result of the addition of these disqualifying offenses would likely be mitigated by the elimination of the exemption hearing process.

The level 2 screening for all summer camp personnel and volunteers represents a significant workload for the DCF's regional background screening units, as the FBI rescreening results would need to be returned to the DCF and evaluated for disqualifying offenses to generate a letter informing the provider of the screening results. There are approximately 6,000 summer camp employees and volunteers in any given year. The employees are frequently short-term staff with a high turnover rate. Additionally, summer camps are short-term care providers with employees and volunteers who must be rescreened each year, making this an annual workload, rather than being distributed over a 5-year period.

The required FBI fingerprint check every five years represents a significant workload to the department, given the size of the child care industry. Annually, the DCF processes approximately 72,000 background screening requests, approximately 9,650 of which are rescreening requests (FDLE checks only) for directors. Under the bill, the directors are subject to FBI background screening. The DCF cannot quantify the impact of requiring the screening requests to include FBI checks for processing by the department, since it does not currently process rescreening of employees. Rather, they are submitted directly to FDLE.

The elimination of the "90-day break in service" provision in s. 402.3057, F.S., potentially represents a significant workload to the department, which cannot be determined without additional statutory guidance. If the intent of the legislation is to rescreen upon all breaks in service, regardless of length or circumstances, the department's workload may double or triple, as this industry has a very high turnover rate.

Processing background screening requests of nonpublic school personnel is a new workload for the department, but the specific impact cannot be determined, because data is not available on the number of screening requests involved.

According to the DCF, the bill appears to imply that the department is responsible for making decisions relating to exemptions from employment disqualification for the VPK program.<sup>57</sup> The DCF reports that it only makes exemption decisions for licensure, not for VPK eligibility. The DCF notes that it would be inappropriate to do so, as it is a decision that may be contested under chapter 120, F.S., and would represent an additional workload for the DCF.

## **VI. Technical Deficiencies:**

The DCF notes that owners and operators of summer day camps are subject to level 2 screening, while employees and volunteers at summer day camps are subject to level 1 screening.<sup>58</sup>

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<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

Accordingly, ss. 409.175(2)(k) and 409.1758, F.S., should be amended to conform to the requirements in the bill. On line 107, “s. 420.3131” should be changed to “s. 402.3131.”

**VII. Related Issues:**

None.

**VIII. Additional Information:**

**A. Committee Substitute – Statement of Substantial Changes:**

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

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

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