

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 Committee on Children, Families, and Elder Affairs

BILL: CS/SB 1682

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

SUBJECT: Religious-exempt Child Care Programs

DATE: April 1, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	Fav/CS
2.	_____	_____	JU	_____
3.	_____	_____	AP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

CS/SB 1682 makes numerous changes to s. 409.175, F.S., related to boarding schools including the following:

- Clarifies that boarding schools must receive one accreditation for academic programs and one accreditation for residential programs;
- Requires boarding schools to register with Department of Education (DOE) as a school which provides residential service for students;
- Sets a timeframe for applying for accreditation and directs DOE to remove boarding schools who fail to comply with these requirements;
- Requires boarding schools to report to the Department of Children and Families (DCF or department) on accreditation progress; and
- Requires level 2 background screening of boarding school employees or contractors with direct student contact.

The bill also makes changes to s. 409.176, F.S., related to residential child-caring agencies and family foster homes, including the following:

- Adds a timeframe of 24 hours for the qualified association under s. 409.176, F.S., to notify DCF when a specified violation occurs which threatens harm to any child or constitutes an emergency requiring immediate action;
- Sets a timeframe of 3 days for the qualified association to notify DCF of facilities who are not licensed or properly registered for residential child care;
- Adds reporting requirements for the qualified association; and
- Grants DCF the authority to fine the qualified association for failure to comply with statutory requirements.

The bill is not expected to have a fiscal impact on the state and provides for an effective date of July 1, 2013.

This bill substantially amends sections 409.175 and 409.176 of the Florida Statutes.

II. Present Situation:

Residential Services for Children

Currently, residential facilities serving children are either licensed by DCF, registered with the Florida Association of Christian Child Caring Agencies (FACCCA), or registered with DOE as a boarding school.

Boarding Schools

Current law requires all boarding schools to register with DOE, and obtain accreditation within three years of registering. Approved accreditation consists of two parts:

- Academic accreditation by either the Florida Council of Independent Schools, or the Southern Association of Colleges and Schools; and
- Residential accreditation by the Council on Accreditation, the Commission on Accreditation of Rehabilitative Facilities, or the Coalition for Residential Education.^{1,2}

To operate legally in the state of Florida as a boarding school, a school must take the following steps:

- Seek academic accreditation from one of the legislatively approved accrediting agencies;
- Seek residential accreditation from one of the legislatively approved accrediting agencies and;
- Register with the DOE as a school to receive a school number. Schools must indicate whether they provide residential care for their students when completing the annual online survey.³

¹ Section 409.175(2)(b), F.S.

² DCF General Counsel issued a memo in December, 2012, clarifying that the intent of the statute is for boarding schools to seek both academic and residential accreditation. Department of Children and Families, HB 7129 Staff Analysis and Economic Impact (March 18, 2013) (on file with the Senate Committee on Children, Families and Elder Affairs).

³ The registration occurs online and does not require any facility inspections by the Department of Education. An annual online survey (which is the same as the initial registration form) is also required by DOE.

A boarding school has 3 years to complete the accreditation process.

A facility wishing to operate as a boarding school can seek exemption from licensure and accreditation by operating under s. 409.176, F.S., which requires registering with a qualified association to provide 24 hour residential care for children. The registration occurs online and does not require any facility inspections by DOE. An annual online survey (which is the same as the initial registration form) is also required by DOE.⁴

Boarding schools must provide proof of accreditation or documentation of the accreditation process upon request. A boarding school that cannot produce the required documentation or that has not registered with the DOE shall be considered to be providing residential group care without a license. DCF can impose administrative sanctions or seek civil remedies for noncompliance with statutory requirements for boarding schools.⁵

Registration of Residential Child Caring Agencies and Family Foster Homes

Section 409.176, F.S. requires registration of residential child-caring agencies and family foster homes. This requirement applies to a facility which is a religious organization that does not directly receive state or federal funds or is a family foster home that is associated with such an organization and does not directly receive state or federal funds. These are referred to in statute as Type II facilities.⁶ These facilities are also exempted from licensure by DCF as long as they become registered under s. 409.176, F.S.

These facilities must be registered by a Florida Statewide Childcare Organization which was in existence on January 1, 1984. The only organization currently used is the Florida Association of Christian Child Caring Agencies (FACCCA).^{7,8} The standards for registration used by FACCCA are required to be in substantial compliance to similar standards used to license similar child caring agencies. DCF is required to determine that the standards are in compliance and thereafter receives updates to the standards within 10 days of adoption.⁹

The registered facilities must enter into contracts with parents, guardians or others with legal custody prior to the child entering a facility. FACCCA is required to notify DCF when there is a violation of requirements in s. 409.176, F.S., which threatens harm to a child.¹⁰ DCF is to notify the state attorney when there is a violation of law reported and shall file civil suit when needed to stop the facility from continuing care.¹¹ DCF also has authority to institute injunctive proceedings in court to enforce requirements of s. 409.176, F.S., or terminate facility operations.¹²

⁴ Section 1002.42(b), F.S.

⁵ Section 409.175, F.S.

⁶ Section 409.176(4), F.S.

⁷ Section 409.176(5)(b), F.S.

⁸ Florida Association of Christian Child Caring Agencies, available at http://www.faccca.com/about_us (last visited March 22, 2013).

⁹ Section 409.176(5)(b), F.S.

¹⁰ Section 409.176(10), F.S.

¹¹ *Id.*

¹² Section 409.176(9), F.S.

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 409.175, F. S., to make a number of changes related to boarding schools including:

- Clarifying that boarding schools must receive one accreditation for academic programs and one accreditation for residential programs and adds academic accrediting sources to the list of choices in statute;
- Clarifying that boarding schools must register with DOE as a school which provides residential service for students;
- Setting a timeframe for applying for accreditation and directing DOE to remove boarding schools who fail to comply with these requirements;
- Requiring boarding schools to report to the department on progress made towards accreditation; and
- Requiring level 2 background screening of boarding school employees or contractors with direct student contact.

Section 2 of the bill amends s. 409.176, F.S, related to residential child-caring agencies and family foster homes. Revisions include:

- Adding a timeframe of 24 hours for the “qualified association” to notify DCF when a specified violation occurs which threatens harm to any child or constitutes an emergency requiring immediate action. There is no current timeframe regarding when a qualified association must report this. The only “qualified association” currently used is the Florida Association of Christian Child Caring Agencies;
- Setting a timeframe of 3 days for the qualified association to notify DCF of facilities who are not licensed or properly registered for residential child care;
- Adding reporting requirements for the qualified association; and
- Granting DCF the authority to fine the qualified association for failure to comply with statutory requirements.

Section 3 of the bill provides an effective date of July 1, 2013.

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:

Boarding schools or their employees will have to pay the cost for background screening.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

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.)

CS by Children, Families, and Elder Affairs on April 1, 2013:

- The CS removes provisions in the bill that created requirements related to boarding schools in ch. 402, F.S. and removes provisions in the bill related to religious exempt child care facilities.
- The CS adds requirements related to boarding schools in ch. 409, F.S., including clarifying that boarding schools must receive one accreditation for academic programs and one accreditation for residential programs and requiring boarding schools to register with DOE as a school which provides residential service for students. A timeframe is set for applying for accreditation and level 2 background screening is required for boarding school employees or contractors with direct student contact.
- The CS also amends s. 409.176, F.S., related to residential child-caring agencies and family foster homes, including adding a timeframe of 24 hours for the qualified association under s. 409.176, F.S., to notify DCF when a specified violation occurs which threatens harm to any child or constitutes an emergency requiring immediate action and setting a timeframe of 3 days for the qualified association to notify DCF of facilities who are not licensed or properly registered for residential child care. The CS adds reporting requirements for the qualified association and grants DCF the authority to fine the qualified association for failure to comply with statutory requirements.

B. Amendments:

None.

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