

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 630

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

SUBJECT: Regulation of Summer Camps

DATE: March 12, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	Fav/CS
2.			RC	
3.				
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 630 requires the Department of Children and Families (DCF or the department) to license summer day camps and summer 24-hour camps under chapter 409, Florida Statutes. The bill makes numerous conforming changes to chapter 409, Florida Statutes, to reflect the new licensure requirement.

The bill creates an unnumbered section of the Florida Statutes that requires summer day camps and summer 24-hour camps to also be registered with the department. The bill adds background screening requirements to certain volunteers in those camps. The bill also provides for inspections by the department, provides for sanctions and creates criminal penalties for certain acts relating to failing to register and misrepresentation of registration.

This bill is anticipated to have a significant fiscal impact on the state, an indeterminate fiscal impact on the five counties that currently license day care facilities, an indeterminate fiscal impact on the private sector, and has an effective date of July 1, 2013.

This bill substantially amends section 409.175 of the Florida Statutes. This bill creates an unnumbered section of the Florida Statutes:

II. Present Situation:

Background

Definitions

Provisions and requirements relating to summer camps and summer 24-hour camps have historically been included in both chs. 402 and 409, F.S., which has led to some inconsistencies in terminology. For example:

- Chapter 409, F.S., defines the term “summer day camp” to mean “recreational, educational, and other enrichment programs operated during summer vacations for children who are 5 years of age on or before September 1 and older.”¹
- Chapter 409, F.S., defines the term “summer 24-hour camp” to mean “recreational, educational, and other enrichment programs operated on a 24-hour basis during summer vacation for children who are 5 years of age on or before September 1 and older, that are not exclusively educational.”²
- “Summer day camps” and “summer camps having children in full-time residence” are specifically excluded from the definition of the term “child care facility” in ch. 402, F.S.³
- “Summer or recreation camps” are specifically excluded from the definition of the term “residential child-caring agency in ch. 409, F.S.”⁴
- The term “summer recreation camps” while used in both chs. 402 and 409, F.S., is not defined in either chapter.⁵
- Camps that are operated at times of the year other than summer, such as during the December holidays and spring break are not defined or addressed in statute.

Background Screening

Chapter 435, F.S., governs background screening standards and requirements for employment:

- **Level 1 screening standards** – Employees required by law to be screened pursuant to Level 1 standards must undergo background screening which includes, but need not be limited to, employment history checks and statewide criminal correspondence checks through the Florida Department of Law Enforcement (FDLE), and a check of the Dru Sjodin National Sex Offender Public Website, and may include local criminal records checks through local law enforcement agencies.⁶
- **Level 2 screening standards** – Employees required by law to be screened pursuant to Level 2 standards must undergo a security background investigation which includes, but need not be limited to, fingerprinting for statewide criminal history records checks through the Department of Law Enforcement, and national criminal history records checks through the

¹ Section 409.175(2)(l), F.S.

² Section 409.175(2)(m), F.S.

³ Section 402.302, F.S.

⁴ Section 409.175, F.S.

⁵ The term “recreational camp” is defined in s. 513.01, F.S. These camps are regulated by the Department of Health.

⁶ Section 435.03, F.S.

Federal Bureau of Investigation, and may include local criminal records checks through local law enforcement agencies.⁷

- **Disqualifying offenses** – Level 1 and Level 2 screenings must ensure that no person has been arrested for and is awaiting final disposition of, has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or has been adjudicated delinquent and the record has not been sealed or expunged for, any of an expansive list of specified offenses.⁸
- **Exemptions from disqualification** – The head of the appropriate agency may grant to any employee otherwise disqualified from employment an exemption from disqualification under a number of specified circumstances.⁹

The determination as to personnel required to be screened and the level of screening needed is set forth in substantive law governing each activity in which employees are required to be screened.

In 1987, the Legislature provided an exemption for “human resource personnel” other than owners and operators of summer recreation camps, summer day camps and summer 24-hour camps from the requirement to be fingerprinted for employee screening under either ch. 409, F.S., (which governs employees and owner/operators of child-placing agencies, family foster homes, and residential child-caring agencies) or ch. 402, F.S., (which governs child care facilities). These personnel were, however, required to comply with all other screening requirements.¹⁰

The term “human resource personnel” was not defined in either ch. 402, F.S., or ch. 409, F.S.

- The definition of the term “child care personnel” found in ch. 402, F.S., included the following: “For purposes of screening, the term shall also include 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.”¹¹ This definition and the specific language of s. 402.316, F.S., require the screening of the personnel of these facilities despite their being otherwise exempt from licensure requirements.¹² This definition did not include personnel working in summer 24-hour camps. In 2010, the legislature removed the reference to “summer day camps” from the definition.¹³
- The definition of the term “personnel” in ch. 409, F.S., included the following: “For the purposes of screening, the term ‘personnel’ shall include owners, operators, employees, and volunteers working in **summer day camps**, or **summer 24-hour camps** providing care for children. A volunteer who assists on an intermittent basis for less than 40 hours per month

⁷ Section 435.04, F.S.

⁸ *Id.*

⁹ Section 435.07, F.S.

¹⁰ Chapter 87-141, Laws of Fla. (s. 409.1758, F.S. effective 2009)

¹¹ Section 402.316, F.S., relates to child care facilities which are exempt from licensing requirements due to their affiliation with church or parochial schools.

¹² Section 402.302(3), F.S.(2009).

¹³ Chapter 2010-114, Laws of Fla.

shall not be included in the term ‘personnel’ for the purposes of screening, provided that the volunteer is under direct and constant supervision by persons who meet the personnel requirements of this section.^{14,15}

In 2010, the legislature repealed s. 409.1758, F.S., relating to screening for summer camp personnel, which means that all summer camp and summer 24-hour camp owners, operators, employees and volunteers that assist more than 10 hours per month must currently comply with Level 2 background screening.¹⁶

Concurrent with the repeal of s. 409.1758, F.S., the department began a campaign to notify summer day camps and summer 24-hour camps of the new screening requirements, created news releases for media outlets throughout the state, and created and mailed a flyer explaining the new screening requirements to numerous summer camps. DCF worked with community partners, such as Florida’s Office of Early Learning’s Resource and Referral unit and local Early Learning Coalitions, to obtain a listing of summer camps, and conducted an internet search to identify summer camps. Identifying the summer camps operating in Florida is difficult because they are exempt from regulatory oversight, and there is no registration or other self-identification requirement.¹⁷

Because summer camps and summer 24 hour camps are transient in nature and because they are currently not subject to licensure, the department faces a challenge in not only identifying camps and notifying them of the background screening requirements, but also in ensuring that camps comply with the background screening law. As part of a review by the department’s Office of the Inspector General, staff chose a sample of 50 of the 532 summer camps on a list identified by the Office of Early Learning and found that:

- Only 19 of the 50 summer camps could be verified as being registered with the department’s background screening office’s Caretaker Screening Information System (CSIS) as of August 19, 2011; and
- For 16 of those 19 camps, there was verification of screened applicants in CSIS.¹⁸

The department has also established a protocol for public reporting and receipt of complaints alleging background screening violations by summer camps. DCF logs such complaints and investigates within 48 hours. If the allegations are substantiated, DCF works with the summer camp to expedite the screening of the owners, operators, employees and volunteers. If the summer camp will not comply with screening requirements, DCF will seek closure of the camp.¹⁹

¹⁴ Section 409.175(2)(i), F.S. (2009).

¹⁵ In 2010, the Legislature revised the criteria for volunteers to read: “A volunteer who assists on an intermittent basis for less than 10 hours per month shall not be included in the term “personnel” for the purposes of the screening requirement of this section is always present and has the volunteer in his or her line of sight.” Chapter 2010-114, F.S.

¹⁶ Chapter 2010-114, Laws of Fla.

¹⁷ Department of Children and Families. *Staff Analysis and Economic Impact. SB 630.* (Feb. 11, 2013).

¹⁸ Department of Children and Families. Office of the Inspector General. Internal Audit. *Assurance Report, Background Screening Office. Project No. A-1112DCF-010.* (Jan. 20, 2012).

¹⁹ Department of Children and Families. *Staff Analysis and Economic Impact. SB 630.* (Feb. 11, 2013).

In March 2013, the department plans to release the “Summer Camp Voluntary Registration Portal.” The portal will provide summer camps with the opportunity for free advertising to parents and the general public through the department’s website. To register a summer camp in the portal, the summer camp operator must provide the camp’s assigned identification numbers, which are mandatory for the completion of background screening and can be obtained only when the summer camp establishes an account with DCF’s Background Screening Unit.²⁰

The department is authorized to adopt rules relating to the screening requirements for summer day camps and summer 24-hour camps.²¹ DCF is currently preparing the Notice of Rule Development and will schedule public workshops to solicit input on the proposed language. The rules will, among other things, require summer programs to register with DCF through the web portal. This will enable the web portal to become the foundation for a comprehensive listing of summer camp programs in Florida, which will improve DCF’s ability to track the programs to ensure they are completing background screening for employees and volunteers.²²

DCF Licensure Authority

The department licenses child-placing agencies, family foster homes, and residential child-caring facilities under ch. 409, F.S.²³ In addition, DCF licenses child care facilities in all but five counties²⁴ of the state under ch.402, F.S. In these five counties, local governments issue the child care licenses and are responsible for the licensing reviews pursuant to s. 402.306, F.S. Licensing reviews include at least two face-to-face visits annually. Section 402.308(3) requires annual relicensing and review, but DCF requires a more frequent inspection. Child care licensees pay fees for licensing. This fee, set forth in s. 402.315, F.S., is \$1.00 per year per child, with a minimum of \$25.00 and a maximum of \$100 annually per center.

Florida law expressly prohibits the department from licensing summer day camps or summer 24-hour camps, but does allow DCF access to the personnel records of these facilities to ensure that background screening requirements have been met. Under current law, summer day camps and summer 24-hour camps are not licensed by DCF or by any other regulatory body or agency.²⁵

In March 2012, the *Palm Beach Post* published a series of articles related to the harm that has occurred to children as a result of attending unlicensed summer camps where employees were either not screened or improperly screened. One article in the series reported the following:²⁶

- Florida camps are completely unregulated. Nobody knows how many operate here. Nobody checks up on the people who run them.

²⁰ *Id.*

²¹ Section 409.175(5)(a), F.S.

²² Department of Children and Families. *Staff Analysis and Economic Impact. SB 630.* (Feb. 11, 2013).

²³ Section 409.175, F.S.

²⁴ Those counties are Broward, Hillsborough, Palm Beach, Pinellas and Sarasota.

²⁵ Section 409.175(6)(k), F.S.

²⁶ Michael LaForgia. The Palm Beach Post. *Weak laws pave way for child sexual abuse.*(Mar. 4, 2012), available at <http://www.palmbeachpost.com/news/news/state-regional/weak-laws-pave-way-for-child-sexual-abuse-2/nLhPP/> (last visited Feb. 27, 2013).

- Florida is one of six states that don't license camps in some form. Its population of 19 million dwarfs the others on the list: North Carolina, Washington, Missouri, New Mexico and South Dakota.
- The state's system of safeguarding kids in child-care centers relies on licensing. State regulators inspect day cares and other licensed businesses to ensure employees are thoroughly screened. There are no such requirements for camps.
- Children are harmed regularly in Florida summer camps. Since 2000, at least 50 children have been victimized in summer programs, or abused by workers the kids first encountered at camp organizations. Because child sexual abuse often goes unreported - one estimate puts the reporting rate at one in 20 cases - that figure likely under-represents the number of victims statewide.
- All 50 states consider child molesters and other sex offenders so dangerous that the government tracks their movements, but nothing stops them from working in Florida camps. More than a few got jobs in summer programs.
- In scores of other cases, rapists, murderers and other violent criminals have led organizations that often run camps. Roughly 170 church or neighborhood youth programs have been operated by felons statewide, including more than two dozen businesses led by child molesters or other sex offenders.
- The groups are disproportionately clustered around the state's poorest neighborhoods.

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 409.175, F.S., to add summer day camps and summer 24-hour camps to the entities that are required to be licensed by the department and makes conforming changes to reflect the addition of those camps.

Section 2 of the bill creates an unnumbered section of the Florida Statutes, that does the following:

- States that the purpose of the section is to protect all children attending summer day camps and summer 24-hour camps by establishing registration and screening requirements;
- Requires all owners, operators, employees, and volunteers to be screened using level 2 standards in ch. 435, F.S.;
- Requires an application for a license to be made on forms provided by and in a manner prescribed by the department and requires the department to determine the good moral character of an applicant;
- Requires camps to allow the department access to inspect facilities and personnel records;
- Provides sanctions for camps, who fail to dismiss unqualified personnel;
- Creates criminal penalties for certain offenses related to failure to register or misrepresentation of registration; and
- Provides the department with rulemaking authority.

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:

The department reports that SB 630 would impact all summer day camps and 24-hour summer camps. Camps may incur costs in order to meet the health and safety standards; such as, staff to child ratios, square footage requirements and meeting current fire safety codes. Specific costs cannot be determined as it will be dependent upon the standards developed by the department as well as the physical environment, size and location of the summer camp or summer 24-hour camp.²⁷

C. Government Sector Impact:

The department reports the following fiscal impact to the agency:²⁸

Fiscal Impact	Fiscal Year 2013-14	
	FTE	Total
Licensure Requirement		
Update licensing system		\$20,000
IT Equipment		\$597,076
Expenses		\$325,169
Licensing staff	287	\$18,468,729
Background screening staff	52	\$2,722,033
Registration Requirement		
Create application database		\$80,000
IT costs and maintenance		\$20,000
Training		\$985

²⁷ Department of Children and Families. *Staff Analysis and Economic Impact. SB 630.* (Feb. 11, 2013)

²⁸ *Id.*

Registration Requirement		
Rule development		\$3,000
Quality control staff	7	\$536,268
Background screening staff	52	\$2,722,033
Total		\$25,495,293

It is unclear whether the 52 additional FTEs required for background screening for licensure can also handle the workload for the registration requirement or whether an additional 52 FTEs are needed for registration. If the 52 FTEs are sufficient for both the licensure and registration processes, then the total fiscal impact of the bill would be \$22,773,260.

The department also reports that the five local licensing counties will incur costs based on the assumption that these counties will promulgate ordinances that meet or exceed those of the state, will identify and notify potential summer camp and 24-hour camp programs, and will hire, train and equip staff to license, register,²⁹ and regulate summer camps.

VI. Technical Deficiencies:

On lines 22 and 23 “summer 24-hour camps, and summer day camps” should read, “summer day camps, and summer 24-hour camps” for consistency.

The bill requires licensure of summer day camps and summer 24-hour camps under ch. 409, F.S., and also creates a new unnumbered section of the Florida Statutes. This makes it unclear as to whether the newly required registration requirement will be placed under ch. 402 or ch. 409, F.S.:

- Summer camps appear to be more similar to child care facilities licensed pursuant to ss. 402.301 – 402.319, F.S., than they are to the child placing and caring agencies and family foster homes licensed under s. 409.175, F.S. Provisions relating to the licensure of summer day camps and summer 24-hour day camps may be more appropriately placed in ch. 402, F.S.
- If the department is going to license camps under ch. 409, F.S., as the bill provides, then it may be more appropriate to also place the registration requirements under ch. 409.
- If the licensure requirements are placed in ch. 409, F.S., then the references to ch. 402, F.S., in section 2 of the bill may be incorrect.

The provisions of the bill relating to use and sharing of information obtained as a result of screening should mirror those under ch. 435, F.S.

The bill provides:

- A first violation of ... subparagraph (a)3. is a misdemeanor of the first degree...;
- A second violation ... of subparagraph (a)3., is a felony of the third degree ...; and
- A violation of subparagraph (a)3. is a felony of the third degree.

²⁹ Department of Children and Families. *Staff Analysis and Economic Impact. SB 630.* (March 5, 2013)

These provisions appear to be conflicting.

VII. Related Issues:

The bill does not address licensure or background screening for those camps that operate during times of year other than the summer.

The bill considers all owners, operators, employees, and volunteers connected with camps to be “summer camp personnel” as defined in s. 402.302, F.S. There is no definition of the term “summer camp personnel” in that section. The bill also requires all of these individuals to be screened using level 2 standards in ch. 435, F.S. Current law exempts volunteers who assist on an intermittent basis for less than 10 hours per month if a person who meets the screening requirement is always present and has the volunteer in his or her line of sight.

The bill appears to provide for suspension, restriction, or limitation for camp registrations but doesn’t specify what those actions might entail.

The bill appears to create a new crime for bodily harm, permanent disfigurement, permanent disability or death of a child as the result of an intentional act or negligence, that occurs in conjunction with misrepresentation of registration. Since bodily harm, permanent disfigurement, permanent disability or death of a child as the result of an intentional act or negligence are already crimes, the intent of this provision is unclear.

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 March 12, 2013:

The bill creates an unnumbered section of the Florida Statutes, that does the following:

- States that the purpose of the section is to protect all children attending summer day camps and summer 24-hour camps by establishing registration and screening requirements;
- Requires all owners, operators, employees, and volunteers to be screened using level 2 standards in ch. 435, F.S.;
- Requires an application for a license to be made on forms provided by and in a manner prescribed by the department and requires the department to determine the good moral character of an applicant;
- Requires camps to allow the department access to inspect facilities and personnel records;
- Provides sanctions for camps, who fail to dismiss unqualified personnel;
- Creates criminal penalties for certain offenses related to failure to register or misrepresentation of registration; and
- Provides the department with rulemaking authority.

B. Amendments:

None.

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