

By the Committee on Children, Families, and Elder Affairs; and  
Senator Brandes

586-03041A-16

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1 A bill to be entitled

2 An act relating to the temporary care of a child;  
3 creating s. 409.1761, F.S.; authorizing certain  
4 organizations to establish programs for the purpose of  
5 assisting parents and legal guardians in providing  
6 temporary respite care for a child; restricting care  
7 to specified children; providing that placement of a  
8 child in temporary respite care does not, in the  
9 absence of evidence to the contrary, constitute abuse,  
10 neglect, or abandonment or placement in foster care;  
11 authorizing the Department of Children and Families to  
12 refer children to such programs under certain  
13 circumstances; defining terms; providing requirements  
14 for an organization to register with qualified  
15 associations; requiring collection and retention of  
16 specified information; providing an exemption from  
17 certain licensure requirements under certain  
18 circumstances; requiring background screening of  
19 specified persons; providing exceptions; requiring  
20 parents or legal guardians to enter into a contract  
21 for care as a condition of participation in the  
22 program; providing requirements for such contracts;  
23 requiring a separate authorization of certain care;  
24 providing an effective date.

25  
26 Be It Enacted by the Legislature of the State of Florida:

27  
28 Section 1. Section 409.1761, Florida Statutes, is created  
29 to read:

30 409.1761 Organizations providing temporary respite care for  
31 children not in the child welfare system.—A qualified nonprofit

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32 organization may establish a program that assists parents and  
33 legal guardians in providing temporary respite care for a child  
34 by a volunteer respite family. Only a child who has not been  
35 removed from the child's parent or legal guardian due to abuse  
36 or neglect and placed in the custody of the department is  
37 eligible to be cared for under this section. Placement of a  
38 child under this section, in the absence of evidence to the  
39 contrary, does not constitute abuse, neglect, or abandonment as  
40 defined in s. 39.01 and is not considered to be placement of the  
41 child in foster care. However, the department may refer children  
42 to a program under this section if the department determines  
43 that the services are appropriate for addressing the needs of a  
44 family in crisis, preventing children from being placed in the  
45 custody of the department, or achieving reunification of a child  
46 with his or her biological family.

47 (1) DEFINITIONS.—As used in this section, the term:

48 (a) "Qualified association" means an association that  
49 publishes, and requires compliance with, its standards and files  
50 copies thereof with the department as provided in s.  
51 409.176(5) (b) and which establishes, publishes, and requires  
52 compliance with best practice standards for operating a program  
53 that assists parents and legal guardians in providing temporary  
54 respite care for a child by a volunteer respite family.

55 (b) "Qualified nonprofit organization" or "organization"  
56 means a Florida private nonprofit organization that assists  
57 parents and legal guardians in providing temporary respite care  
58 for a child by a volunteer respite family under an agreement  
59 with a qualified association.

60 (c) "Volunteer respite family" means an individual or

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61 family who voluntarily agrees to provide temporary care for a  
62 child under a contract for care with the child's parent or legal  
63 guardian with the assistance of a qualified nonprofit  
64 organization.

65 (2) REGISTRATION.—A qualified nonprofit organization that  
66 wishes to provide temporary respite care to children under this  
67 section shall annually register with a qualified association.

68 (a) The organization must file with the qualified  
69 association the name and address of the organization; the names  
70 and addresses of the officers and the members of the board of  
71 directors or other governing body of the organization, as  
72 applicable; the name of the person in charge of the  
73 organization; and proof that the organization is in compliance  
74 with the minimum health, sanitary, and safety standards required  
75 by applicable state law or local ordinance, the uniform fire  
76 safety standards required by chapter 633, and the personnel  
77 screening requirements in s. 409.175 and chapter 435.

78 (b) Each organization shall annually provide to the  
79 qualified association relevant data on the services provided by  
80 the organization, including the organization's capacity and the  
81 number of approved volunteer respite families; the number and  
82 ages of children being cared for through the organization, the  
83 number of children who have left the care of the organization  
84 during the past year, the length of stay of each child, and the  
85 reason for each child's care; and the names of all personnel.

86 (c) Upon verification that all requirements for  
87 registration have been met, the qualified association shall,  
88 without charge, issue a certificate of registration valid for 1  
89 year.

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90 (3) COLLECTION AND RETENTION OF INFORMATION AND  
91 DOCUMENTATION.—

92 (a) An organization shall collect and maintain at least the  
93 following information and documentation for each child to whom  
94 it provides temporary respite care:

95 1. The name and age of the child;

96 2. The name, address, and contact information for the  
97 child's parent or legal guardian;

98 3. The name, address, and contact information for the  
99 child's volunteer respite family;

100 4. A copy of the contract for care of the child executed  
101 pursuant to subsection (6); and

102 5. Proof of the volunteer respite family's compliance with  
103 the screening requirements of s. 409.175 and chapter 435.

104 (b) An organization shall maintain on site and provide,  
105 upon request, proof that the organization is in compliance with  
106 published minimum standards that are filed by the qualified  
107 association with the department as required in s. 409.176(5)(b).  
108 The qualified association has the right to access and review the  
109 organization's files at any time to ensure compliance with this  
110 section and the standards established by the qualified  
111 association.

112 (4) EXEMPTION FROM LICENSURE.—The licensing provisions of  
113 s. 409.175 do not apply to a private organization that is  
114 certified with a qualified association that assists parents and  
115 legal guardians in providing temporary respite care for a child  
116 by a volunteer caregiver pursuant to a properly executed  
117 contract under this section. However, such organizations must  
118 meet the screening requirements established in s. 409.175 and

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119 chapter 435.

120 (a) Any organization registered under this section shall  
121 immediately notify the department if it has in its care a child  
122 with serious developmental disabilities or a physical,  
123 emotional, or mental handicap for which the organization is not  
124 qualified or able to provide care.

125 (b) The provisions of chapters 39 and 827 regarding the  
126 reporting of child abuse, abandonment, and neglect apply to any  
127 organization registered under this section.

128 (5) BACKGROUND SCREENING.—A qualified nonprofit  
129 organization shall conduct a screening as that term is defined  
130 in s. 409.175(2) of each individual identified in paragraph (b).

131 (a) The department shall attest to the good moral character  
132 of the personnel of the organization and members of the  
133 volunteer family home by maintaining and, upon request,  
134 providing proof of compliance with the screening requirements  
135 established in s. 409.175 and chapter 435.

136 (b) Individuals required to be screened under this section  
137 include:

138 1. All employees of the organization assisting parents in  
139 providing respite care;

140 2. Members of the family that is providing respite care for  
141 a child, and persons residing with the family, any of whom are  
142 18 years of age or older;

143 3. Members of the family that is providing respite care for  
144 a child, and persons residing with the family, any of whom are  
145 between 12 years and 18 years of age. Such persons must be  
146 screened for delinquency records, but are not required to be  
147 fingerprinted; and

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148 4. A volunteer who assists on an intermittent basis for  
149 fewer than 10 hours per month, unless a person who meets the  
150 screening requirement of this section is present and has the  
151 volunteer in his or her line of sight at all times.

152 (6) CONTRACT FOR CARE.—A parent or legal guardian of a  
153 child must enter into a written contract for care to provide for  
154 the temporary respite care of the child under this section. The  
155 contract must be executed before, or at the time, the child is  
156 placed with a volunteer respite family and organization. Through  
157 the contract for care, the parent or legal guardian may delegate  
158 to the volunteer family any of the powers regarding the care and  
159 custody of the child, except the power to consent to the  
160 marriage or adoption of the child, the performance of or  
161 inducement of an abortion on or for the child, or the  
162 termination of parental rights to the child. The parent or legal  
163 guardian may revoke or withdraw the contract for care at any  
164 time, and the child shall be returned to the custody of the  
165 parent or legal guardian as soon as reasonably possible. A  
166 contract for care executed under this section expires  
167 automatically after 1 year, and may not operate to deprive any  
168 parent or legal guardian of any parental or legal authority  
169 regarding the care and custody of the child or supersede any  
170 court order regarding the care and custody of the child. Each  
171 contract must:

172 (a) Enumerate the basic services and accommodations  
173 provided by the volunteer respite family and organization.

174 (b) Identify the child, parent or legal guardian, and  
175 volunteer respite family, including necessary contact  
176 information for all parties.

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177 (c) Identify the organization, including the address,  
178 telephone number and primary point of contact.

179 (d) Contain a clear statement regarding disciplinary  
180 procedures.

181 (e) State that the goal of the organization is to return  
182 the child receiving respite care to the parent or legal guardian  
183 as soon as the situation requiring care has been resolved.

184 (f) Authorize the volunteer respite family to consent to  
185 routine and emergency medical care on behalf of the parent or  
186 legal guardian. However, the volunteer family shall immediately  
187 notify the parent or legal guardian of medical care being  
188 provided on his or her behalf. Such authorization must be  
189 granted separately in the contract upon consent of the parent or  
190 legal guardian.

191 Section 2. This act shall take effect July 1, 2016.