

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 7053 PCB EDC 16-02 Child Care and Development Block Grant Program
SPONSOR(S): Appropriations Committee; Education Committee; O'Toole
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Education Committee	16 Y, 0 N	Dehmer	Mizereck
1) Appropriations Committee	22 Y, 0 N, As CS	Heflin	Leznoff

SUMMARY ANALYSIS

Florida's Office of Early Learning (OEL) administers the Child Care and Development Fund (CCDF) and provides state-level administration for the school readiness program. On November 19, 2014, the Child Care and Development Block Grant (CCDBG) Act of 2014 was signed into law reauthorizing the CCDF for the first time since 1996. The new law requires that parents and the general public be provided better information about available child care choices and establishes health and safety requirements for school readiness program providers.

The bill implements the requirements of the Child Care and Development Block Grant (CCDBG) Act by:

- Increasing public information on, and background screening of, child care providers;
- Aligning eligibility requirements with the grant;
- Requiring inspection of, and standards for emergency preparedness plans for, school readiness program providers; and
- Requiring pre-service and in-service training for personnel of School Readiness program providers.

See fiscal impact on state government. Failure to adopt this bill will result in the loss of the state's draw-down of the 2015 federal dollars in the CCDBG which is estimated to be \$273,745,303. To implement the Federal requirements of the reauthorized grant will require \$614,755 of budget authority for personnel resources to perform the additional licensure, background screening, and public awareness requirements. The budget authority is being provided in the House proposed General Appropriations Act for Fiscal Year 2016-2017.

This bill takes effect July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Child Care and Development Block Grant (CCDBG)

The Office of Child Care (OCC) of the United States Department of Health and Human Services supports low-income working families by providing access to affordable, high-quality early care and afterschool programs. OCC administers the Child Care and Development Fund (CCDF) and works with state, territory and tribal governments to provide support for children and their families to promote family economic self-sufficiency and to help children succeed in school and life through affordable, high-quality early care and afterschool programs.¹

School Readiness Program

Florida's Office of Early Learning (OEL)² is the designated lead agency for purposes of administering the CCDF Block Grant Trust Fund and provides state-level administration for the School Readiness program. The School Readiness program is a state-federal partnership between OEL and the Office of Child Care of the United States Department of Health and Human Services.³ The School Readiness program receives funding from a mixture of state and federal sources, including the federal CCDF, the federal Temporary Assistance for Needy Families (TANF) block grant, general revenue and other state funds.⁴ The school readiness program provides subsidies for child care services and early childhood education for children of low-income families; children in protective services who are at risk of abuse, neglect, or abandonment; and children with disabilities.

The program utilizes a variety of providers to deliver program services, such as licensed and unlicensed child care providers and public and nonpublic schools.⁵ The Florida Department of Children and Families' Office of Child Care Regulation (DCF), as the agency responsible for the state's child care provider licensing program, regulates child care providers that provide early learning programs.⁶

The program is administered at the county or regional level by early learning coalitions (ELC).⁷

In order to be eligible to deliver the School Readiness program, a provider must be:

- A licensed child care facility;
- A licensed or registered family day care home (FDCH);
- A licensed large family child care home (LFCCH);
- A public school or non-public school;
- A license-exempt faith-based child care provider;
- A before-school or after-school program; or

¹ Office of Child Care, *What We Do*, at <http://www.acf.hhs.gov/programs/occ/about/what-we-do> (last visited Nov. 13, 2015).

² In 2013, the Legislature established the Office of Early Learning in the Office of Independent Education and Parental Choice within the Department of Education (DOE). The office is administered by an executive director and is fully accountable to the Commissioner of Education but shall independently exercise all powers, duties, and functions prescribed by law, as well as adopt rules for the establishment and operation of the School Readiness program and the Voluntary Prekindergarten Education Program. Section 1, 2013-252, L.O.F., *codified as* s. 1001.213, F.S.

³ Part VI, ch. 1002, F.S.; 42 U.S.C. ss. 618 & 9858-9858q.

⁴ Specific Appropriation 88, s. 2, ch. 2014-51, L.O.F.

⁵ Section 1002.88(1)(a), F.S.

⁶ *See* ss. 402.301-319, F.S., and Part VI, ch. 1002, F.S.

⁷ *Sections 1002.83-1002.85, F.S.* There are currently 30 ELCs, but 31 is the maximum permitted by law. Section 1002.83(1), F.S.; *see* Florida's Office of Early Learning, *Early Learning Coalition Directory* (Feb. 5, 2014),

<http://www.floridaearlylearning.com/sites/www/Uploads/files/Parents/CoalitionDirectory.pdf>.

- An informal child care provider authorized in the state's CCDF plan.⁸

On November 19, 2014, the Child Care and Development Block Grant (CCDBG) Act of 2014 was signed into law reauthorizing the CCDF for the first time since 1996. The new law prescribes health and safety requirements for School Readiness program providers and requires better information to parents and the general public about available child care choices.⁹

While Florida's school readiness programs meet many of the new federal requirements, there are specific requirements of the grant that will necessitate changes to Florida law which include:

- Screening for child care staff to include searches of the National Sex Offender Registry, as well as searches of state criminal records, sex offender registry and child abuse and neglect registry of any state in which the child care personnel resided during the preceding 5 years.¹⁰
- Posting of monitoring and inspection reports through electronic means.¹¹
- Providing parents and the general public, information, via a website, regarding:
 - The availability of child care services to promote informed child care choices;
 - The process for licensing child care providers;
 - The conducting of background screening;
 - The monitoring and inspection of child care providers; and
 - The offenses that would prevent individuals and entities from serving as child care providers in the state.¹²
- Inspecting license-exempt providers receiving CCDBG funds for compliance with health, safety, and fire standards.¹³
- Requiring disaster preparedness plan to include procedures for staff and volunteer emergency preparedness training and practice drills.¹⁴
- Certifying in the state plan, compliance with the child abuse reporting requirements of the Child Abuse Prevention and Treatment Act.¹⁵

Effect of Proposed Changes

Under current law all child care personnel must be of good moral character based upon screening conducted pursuant to chapter 435 using the level 2 standards.¹⁶ The level 2 screening standards include "a statewide criminal history records check through the Department of Law Enforcement, national criminal history checks through the Federal Bureau of Investigation, and may include local criminal records check through local law enforcement agencies."¹⁷ The screening also includes a search of the National Crime Information Center database¹⁸ which consists of 21 files, including the National Sex Offender Registry.¹⁹ To implement the federal requirements of the grant, the bill clarifies that screenings for child care providers must include employment history checks over the previous 5 years and searches of the state criminal records, the sex offender registry, and the child abuse and neglect registry of any state in which the individual resided during the preceding 5 years. The bill also

⁸ Section 1002.88(1)(a), F.S. Generally speaking, informal child care is care provided by a relative. See Florida's Office of Early Learning, *Florida's Child Care and Development Fund State Plan FFY 2014-15*, at 71 (Oct. 1, 2013), available at http://www.floridaearlylearning.com/sites/www/Uploads/files/Oel%20Resources/2014-2015_CCDF_Plan_%20Optimized.pdf.

⁹ Office of Child Care, *CCDF Reauthorization*, at <http://www.acf.hhs.gov/programs/occ/ccdf-reauthorization> (last visited Nov. 13, 2015).

¹⁰ Pub. L. No. 113-186, 128 Stat. 1971, Sec. 658H(b)

¹¹ Pub. L. No. 113-186, 128 Stat. 1971, Sec. 658E(c)(2)(C)

¹² Pub. L. No. 113-186, 128 Stat. 1971, Sec. 658E(c)(2)(C)

¹³ Pub. L. No. 113-186, 128 Stat. 1971, Sec. 658E(c)(2)(K).

¹⁴ Pub. L. No. 113-186, 128 Stat. 1971, Sec. 658E(c)(2)(U).

¹⁵ Pub. L. No. 113-186, 128 Stat. 1971, Sec. 658E(c)(2)(L).

¹⁶ Section 402.305(2)(a), F.S.

¹⁷ Section 435.04(1)(a), F.S.

¹⁸ Letter, Florida Department of Law Enforcement, Criminal Justice Information Center (April 20, 2015).

¹⁹ See Federal Bureau of Investigation, *National Crime Information Center*, <https://www.fbi.gov/about-us/cjis/ncic> (last visited November 24, 2015).

provides the Office of Early Learning with access to records of the child abuse, abandonment, or neglect registry for employment screening and approval of providers who receive school readiness funding. Each child care facility, family day care home, and large family day care home must annually submit an affidavit of compliance with s. 39.201, F.S., regarding the mandatory reporting of child abuse, abandonment, or neglect.

A provider who receives school readiness funding may not employ a person who has been convicted of:

- Any felony offense relating to:
 - Domestic violence;
 - Murder;
 - Manslaughter, aggravated manslaughter of an elderly person or disabled adult, aggravated manslaughter of a child, or aggravated manslaughter of an officer, firefighter, an emergency medical technician or paramedic;
 - Aggravated assault;
 - Aggravated battery;
 - Kidnapping;
 - Luring or enticing a child;
 - Leading, taking, enticing or removing a minor beyond state limits; or concealing the location of a minor, with criminal intent pending custody proceedings, pending dependency proceeding or proceeding concerning alleged abuse or neglect of a minor;
 - Sexual battery;
 - Sexual activity with or solicitation of a child by a person in familial or custodial authority;
 - Unlawful sexual activity with certain minors;
 - Female genital mutilation;
 - Arson;
 - Incest;
 - Child abuse, aggravated child abuse or neglect of a child;
 - Contributing to the delinquency or dependency of a child;
 - Sexual performance by a child;
 - Sexual misconduct in juvenile justice programs;
- Any misdemeanor offense prohibited under:
 - Section 784.03, F.S., relating to battery of a minor;
 - Section 787.025 F.S., relating to luring or enticing a child;
- Any criminal act committed in another state or under federal law which, if committed in Florida, constitutes an offense listed above.

To increase public information on available child care options, DCF and local licensing agencies must include within their current dissemination of information on child care:

- Health and safety standards for school readiness providers;
- Monitoring and inspection reports;
- Location and contact information for school readiness providers;
- Data on the number of deaths, serious injuries, and instances of substantiated child abuse in the child care setting;
- Research and best practices in child development; and
- Resources regarding social and emotional development, parent and family engagement, health eating, and physical activity.

Currently, child care providers must provide basic health and safety of its premises and facilities and compliance with requirements for age-appropriate immunizations of children. Licensed providers may satisfy this requirement through compliance with current licensing standards for child care facilities, large family child care homes, or family day care homes. Faith-based child care providers, informal

child care providers and nonpublic schools exempt from licensure satisfy this requirement by posting a health and safety checklist adopted by OEL.

Under the grant, all school readiness program providers must meet a minimum level of health and safety and receive at least one annual inspection. Consequently, the bill authorizes OEL to enter into a memorandum of understanding (MOU) with DCF and local licensing agencies to conduct inspections and verify compliance with requirements of the federal grant by all providers who receive school readiness funding. DCF or the local licensing agency, as applicable, will conduct inspections to determine compliance with the school readiness program provider standards through exercise of their discretionary power to enforce compliance with the laws. The authority to inspect includes access to facilities, personnel, and records. A school readiness program provider that refuses entry or inspection shall have its provider contract terminated.

School readiness providers must:

- Provide more information to the public to promote informed child care choices.
- Provide training on child care development research and best practices and cardiopulmonary resuscitation training.
- Provide an appropriate group size as well as an appropriate staff-to-child ratio.
- Employ child care personnel who have satisfied the screening requirements of chapter 402, and fulfilled the training requirements of OEL.

The OEL must:

- Establish pre-service and in-service training requirements that, at a minimum, address:
 - School Readiness child development standards;
 - Health and safety standards; and
 - Social-emotional behavior intervention models.
- Establish standards for emergency preparedness plans for school readiness providers.
- Develop and implement strategies to increase the supply and improve the quality of child care services for children in underserved and impoverished areas along with areas where children have disabilities and require care during non-traditional hours.
- Establish group sizes.
- Establish staff-to-child ratios that do not exceed those defined²⁰ in current statute for licensing standards of child care facilities.²¹
- Establish eligibility criteria for the school readiness program consistent with state and federal law.
- Establish a sliding fee scale that provides for a parent copayment that is not a barrier to families receiving school readiness program services.

Once a child is determined eligible for the school readiness program, the child remains eligible for a period of twelve months. Consequently, the bill repeals the requirement that each early learning coalition redetermine eligibility twice per year for an additional 50 percent the coalition's enrollment.

A parent of a child enrolled in the school readiness program must notify the coalition within 10 day of any change in employment status or failure to maintain attendance at a job training or educational program in accordance with program requirements. If a child from a working family becomes ineligible due to a parent's unemployment or nonattendance at a job training or education program, the parent has 90 days to reestablish employment or resume attendance at a job training or education program. The child remains eligible during the 90 day period. In addition, the bill authorizes coalitions to temporarily waive the copayment for a child whose family income is at or below the federal poverty level.

B. SECTION DIRECTORY:

²⁰ See Sections 402.302(8) and (11), F.S.

²¹ See Section 402.305(4), F.S.

Section 1. Amends s. 39.202, F.S., providing the Office of Early Learning with access to records of the child abuse registry to approve providers who receive school readiness funding.

Section 2. Amends s. 402.302, F.S., revising the definition of screening.

Section 3. Amends s. 402.306, F.S., requiring the Department of Children and Families and local licensing agencies to disseminate, through electronic means, additional child care information to families and the public.

Section 4. Amends s. 402.311, F.S., authorizing the department to conduct inspections of child care facilities.

Section 5. Amends s. 402.319, F.S., requiring all providers to submit an affidavit of compliance with the mandatory reporting requirements of the child abuse, abandonment, or neglect registry.

Section 6. Amends s. 435.07, F.S., prohibiting an individual with certain offenses from working with child care providers who receive school readiness funding.

Section 7. Amends s. s. 1002.82, F.S., revising the powers and duties of the Office of Early Learning.

Section 8. Amends s. 1002.84, F.S., repealing requirement for redetermination of child eligibility.

Section 9. Amends s. 1002.87, F.S., revising eligibility criteria for participation in the school readiness program.

Section 10. Amends s. 1002.88, F.S., revising provider eligibility.

Section 11. Amends s. 1002.89, F.S., revising requirements for the school readiness program.

Section 12. Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Failure to adopt this bill will result in the loss of the state's draw-down of the federal dollars in the CCDBG. The federal draw down of the CCDBG for the 2015 federal fiscal year is estimated to be \$273,745,303. Due to the overlap in the state and federal fiscal years, budget authority for the CCDBG in the 2015-2016 General Appropriations Act is higher than the federal draw down amount, totaling \$374,111,331.

2. Expenditures:

To implement the additional licensure, background screening, and public awareness requirements of the reauthorized grant, it's estimated the DCF will require \$614,755 in budget authority from the Federal Grants Trust Fund to comply with the new requirements of the federal Child Care Development Block Grant Act of 2014. Of the total, this issue reflects \$533,941 in the Family Safety budget entity. The reauthorization defines health and safety requirements for child care providers, outlines eligibility practices and provides transparent information about child care choices to the general public. This issue funds nine Other Personal Services positions including seven Family Services Counselors, one Family Services Counselor Supervisor, and one Senior Attorney to support the increased workload associated with these new requirements. The budget authority is being provided in the House proposed General Appropriations Act for Fiscal Year 2016-2017.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On December 3, 2015, the Education Committee adopted one amendment and reported the bill favorably. The amendment clarified that the staff-to-child ratios established by the OEL shall not exceed those defined in law for child care providers under the jurisdiction of the Department of Children and Families. The bill analysis is drafted to the proposed committee bill as amended.

On January 28, 2015, the Appropriations committee adopted four amendments and reported the bill favorably. The amendments:

- Detailed the process for submitting fingerprints to the Florida Department of Law Enforcement.

- Clarified that individuals who are registered as a sexual offender are ineligible for employment with a school readiness provider and defines conviction to include individuals who have been arrested for a disqualifying offense.
- Clarified that the MOU between OEL and DCF and local licensing agencies includes the authority to inspect ALL school readiness providers.
- Removed current law that would have made a child ineligible if their family income exceeded 200% of the federal poverty level which is in conflict with the federal regulation.

The bill analysis is drafted to the bill as amended.