

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 Education Pre-K - 12

BILL: SB 7058

INTRODUCER: Education Pre-K – 12 Committee

SUBJECT: Child Care and Development Block Grant Program

DATE: February 3, 2016

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Scott	Klebacha		ED Submitted as Committee Bill

I. Summary:

SB 7058 revises provisions relating to health and safety standards and eligibility for the School Readiness program to align to federal requirements in the 2014 reauthorization of the Child Care and Development Block Grant.

Specifically, the bill:

- Increases health and safety standards.
- Expands requirements for employment history checks and child care personnel background screenings.
- Expands availability of child care information, including inspection and monitoring reports.
- Expands School Readiness provider standards to include preservice and inservice training requirements and appropriate group size and staff-to-child ratios.
- Aligns child eligibility criteria to the federal requirements.

The bill provides an effective date of July 1, 2016.

II. 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.¹ The 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.² The CCDF provides funding for state efforts to provide child care services for low-income family members who

¹ Office of Child Care, *What We Do*, <http://www.acf.hhs.gov/programs/occ/about/what-we-do> (last visited January 27, 2016).

² *Id.*

work, train for work, attend school, or whose children receive or need to receive protective services.³ Block grant funding can be used for public or private, religious or non-religious, and center or home-based care.⁴ Child care programs that accept funding must comply with state health and safety requirements.⁵

School Readiness Program

Florida's Office of Early Learning (OEL)⁶ 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.⁷ 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.⁸ 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.⁹ 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.¹⁰ The Florida Department of Children and Families' (DCF) Office of Child Care Regulation, as the agency responsible for the state's child care provider licensing program, regulates some, but not all, of the child care providers that provide early learning programs.¹¹ The program is administered at the county or regional level by early learning coalitions (ELC).¹²

In order to be eligible to deliver the School Readiness program, a provider must be:¹³

- 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;

³ U.S. Department of Education, Office of Non-Public Education, <http://www2.ed.gov/about/offices/list/oii/nonpublic/childcare.html> (last visited January 27, 2016).

⁴ *Id.*

⁵ *Id.*

⁶ 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.

⁷ Section 1002.82(1), F.S.

⁸ Part VI, ch. 1002, F.S.; 42 U.S.C. ss. 618 & 9858-9858q.

⁹ Specific Appropriation 82, s. 2, ch. 2015-232, L.O.F.

¹⁰ Section 1002.88(1)(a), F.S.

¹¹ *See* ss. 402.301-319, F.S., and part VI, ch. 1002, F.S.

¹² 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* (Jan. 11, 2016), available at <http://www.floridaearlylearning.com/sites/www/Uploads/files/Coalition/Coalition%20Directory/CoalitionDirectory%201.11.16.pdf>.

¹³ Section 1002.88(1)(a), F.S.

- A license-exempt faith-based child care provider;
- A before-school or after-school program; or
- An informal child care provider authorized in the state's CCDF plan.¹⁴

Reauthorization of the CCDBG Act

On November 19, 2014, the CCDBG Act of 2014 was signed into law reauthorizing the CCDF for the first time since 1996.¹⁵ The new law prescribes health and safety requirements for School Readiness program providers and requires transparent information to parents and the general public about available child care choices.¹⁶

While Florida's School Readiness program currently meets many of the new federal requirements, there are specific federal requirements that necessitate changes to Florida law including:¹⁷

- Screening for child care staff to include searches of the National Sex Offender Registry, as well as searches of state criminal records, the sex offender registry and child abuse and neglect registry of any state in which the child care personnel resided during the preceding 5 years.¹⁸
- Posting of monitoring and inspection reports through electronic means.¹⁹
- 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.²⁰
- Inspecting license-exempt providers receiving CCDBG funds for compliance with health, safety, and fire standards.²¹
- Requiring disaster preparedness plan to include procedures for staff and volunteer emergency preparedness training and practice drills.²²
- Certifying in the state plan, compliance with the child abuse reporting requirements of the Child Abuse Prevention and Treatment Act.²³

¹⁴ See Florida Office of Early Learning, *Florida's Child Care and Development Fund State Plan FFY 2014-15*, available at http://www.floridaearlylearning.com/sites/www/Uploads/files/Oel%20Resources/2014-2015_CCDF_Plan_%20Optimized.pdf. The CCDF State Plan for 2016-2018 is due March 1, 2016 to the Administration for Children and Families and will become effective, once approved, on June 1, 2016. Florida Office of Early Learning, CCDF Plan, http://www.floridaearlylearning.com/oel_resources/ccdf_plan.aspx (last visited January 27, 2016).

¹⁵ Office of Child Care, *CCDF Reauthorization*, <http://www.acf.hhs.gov/programs/occ/ccdf-reauthorization> (last visited January 27, 2016).

¹⁶ *Id.*

¹⁷ Pub. L. No. 113-186, 128 Stat. 1971, Child Care and Development Block Grant Act Reauthorization (2014), available at <https://www.gpo.gov/fdsys/pkg/PLAW-113publ186/pdf/PLAW-113publ186.pdf>.

¹⁸ Pub. L. No. 113-186, 128 Stat. 1971, Sec. 658H(b)

¹⁹ Pub. L. No. 113-186, 128 Stat. 1971, Sec. 658E(c)(2)(C)

²⁰ Pub. L. No. 113-186, 128 Stat. 1971, Sec. 658E(c)(2)(C)

²¹ Pub. L. No. 113-186, 128 Stat. 1971, Sec. 658E(c)(2)(K).

²² Pub. L. No. 113-186, 128 Stat. 1971, Sec. 658E(c)(2)(U).

²³ Pub. L. No. 113-186, 128 Stat. 1971, Sec. 658E(c)(2)(L).

Furthermore, pursuant to the CCDBG Act of 2014, child care personnel are ineligible for employment by a School Readiness provider if an individual:²⁴

- Refuses to consent to a criminal background check;
- Knowingly makes a materially false statement in connection with such criminal background check;
- Is registered, or is required to be registered, on a state sex offender registry or the National Sex Offender Registry;
- Has been convicted of a felony consisting of:
 - Murder;
 - Child abuse or neglect;
 - A crime against children, including child pornography;
 - Spousal abuse;
 - A crime involving rape or sexual assault;
 - Kidnapping;
 - Arson;
 - Physical assault or battery; or
 - A drug-related offense committed during the preceding 5 years; or
- Has been convicted of a violent misdemeanor committed as an adult against a child, including:
 - Child abuse;
 - Child endangerment;
 - Sexual assault; or
 - A misdemeanor involving child pornography.

Child Care Personnel

The Department of Children and Families (DCF) is responsible for the licensure and regulation of child care facilities, family day care homes, and large family child care homes.²⁵ However, there are child care providers that are not licensed by the DCF, including those that are required only to register with the DCF and those that are exempt from licensure by virtue of being an integral part of a church or parochial school.²⁶

All child care personnel employed in a setting regulated by the DCF, whether licensed, registered, or religious-exempt, are required to undergo background screening using the level 2 standards set forth in chapter 435, F.S.²⁷ If an applicant for employment is disqualified from working with children due to the results of the level 2 background screening, the Secretary of the DCF may grant an exemption from that disqualification.²⁸

Level 2 Background Screening

A level 2 background screening includes, but is not limited to, fingerprinting for statewide criminal history records checks through the Florida Department of Law Enforcement (FDLE)

²⁴ 42 U.S.C. 9858f(c)(1).

²⁵ Sections 402.301-402.319, F.S.

²⁶ Section 402.316, F.S.

²⁷ Section 402.305 (2)(a), F.S. The level 2 background screening standards are set forth in s. 435.04, F.S.

²⁸ Section 435.07, F.S.

and national criminal history checks through the Federal Bureau of Investigation (FBI), and may include local criminal records checks through local law enforcement agencies.²⁹ A vendor may perform all or part of the electronic fingerprinting of an applicant and submit those fingerprints to the FDLE, which in turn runs statewide records checks and submits the electronic file to the FBI for national records checks.³⁰

Once the background screening is completed, and FDLE has received the information from the FBI, the criminal history information is transmitted to the DCF. The DCF then determines if the screening contains any disqualifying information for employment. The DCF must ensure that no applicant has been arrested for, is awaiting final disposition of, has been found guilty of, or entered a plea of *nolo contendere* or guilty to any prohibited offense including, but not limited to, such crimes as sexual misconduct, murder, assault, kidnapping, arson, exploitation, lewd and lascivious behavior, drugs, and domestic violence.³¹ If the DCF finds that an individual has a history containing any of these offenses, they must disqualify that individual from employment in child care settings regulated by the DCF.³²

Exemptions from Disqualification

The Secretary of the DCF is authorized to grant an exemption from disqualification to applicants for employment, including child care applicants, based on the following:³³

- Felonies for which at least 3 years have elapsed since the applicant for the exemption has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court for the disqualifying felony;
- Misdemeanors prohibited under chapter 425, F.S., or under similar statutes of other jurisdictions for which the applicant for the exemption has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court;
- Offenses that were felonies when committed but that are now misdemeanors and for which the applicant for the exemption has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court; or
- Findings of delinquency.³⁴

The Secretary of the DCF may not grant an exemption to an individual who is found guilty of, regardless of adjudication, or who has entered a plea of *nolo contendere* or guilty to, specified felony or misdemeanor offenses solely by reason of any pardon, executive clemency, or

²⁹ Section 435.04(1)(a), F.S.

³⁰ *Id.* at (1).

³¹ *Id.* at (2).

³² Section 435.07, F.S.

³³ *Id.* at (1).

³⁴ *Id.* at (1)(a)4. For offenses that would be felonies if committed by an adult and the record has not been sealed or expunged, the exemption may not be granted until at least 3 years have elapsed since the applicant for the exemption has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court for the disqualifying offense. *Id.*

restoration of civil rights.³⁵ Also, an exemption may not be granted to anyone who is considered a sexual predator,³⁶ career offender,³⁷ or sexual offender (unless not required to register).³⁸

III. Effect of Proposed Changes:

SB 7058 revises provisions relating to health and safety standards and eligibility for the School Readiness program to align to federal requirements in the 2014 reauthorization of the Child Care and Development Block Grant (CCDBG).

Specifically, the bill:

- Increases health and safety standards.
- Expands requirements for employment history checks and child care personnel background screenings.
- Expands availability of child care information, including inspection and monitoring reports.
- Expands School Readiness provider standards to include preservice and inservice training requirements and appropriate group size and staff-to-child ratios.
- Aligns child eligibility criteria to the federal requirements.

Health & Safety Standards

Current law requires a child care provider to provide basic health and safety of its premises and facilities and compliance with requirements for age-appropriate immunizations of children. A licensed provider 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 the Office of Early Learning (OEL).

Pursuant to the CCDBG Reauthorization, all School Readiness program providers must meet a minimum level of health and safety requirements and receive at least one annual inspection. The bill requires registered or license-exempt School Readiness providers to comply with the health and safety checklist and training requirements adopted by OEL, as well as the child care personnel background screening requirements.

Screening of Child Care Personnel

The bill redefines the definition of “screening” to include employment history checks consisting of documented attempts to contact each employer that employed the child care applicant within the preceding 5 years and documented findings from such contact. The bill requires that a screening include a search of the criminal history records, sexual predator and sexual offender registry, and child abuse and neglect registry of any state in which the applicant resided during the preceding 5 years. In effect, the bill revises the definition of screening to align to the new

³⁵ Sections 435.03 and 435.04(2), F.S.

³⁶ Section 775.21, F.S.

³⁷ Section 775.261, F.S.

³⁸ Sections 943.0435 and 943.04354, F.S.

federal requirements, and requires that any School Readiness provider screen individuals seeking employment in a manner consistent with the requirements.

The bill authorizes the use of information in the Department of Children and Families' (DCF) Central Abuse Hotline for purposes of conducting background screenings of child care personnel. Generally, the use of information in the Central Abuse Hotline is prohibited from being used for employment screenings, except in specified instances (*e.g.*, child or adult protective investigations or licensure or approval of child care facilities). Furthermore, the bill authorizes employees, authorized agents, and contract providers of the OEL to have access to DCF child abuse and neglect reports and records to ensure compliance with the federal requirements.

Disqualification from Employment

The bill prohibits the removal of or exemption from disqualification from employment for any current or prospective School Readiness provider personnel if an individual is registered, or is required to be registered, as a sex offender³⁹ or has been convicted of felony or misdemeanor offenses as specified in federal law.⁴⁰ The bill also disqualifies a person from employment with a School Readiness provider regardless of any prior exemption from disqualification. The change in law is consistent with the federal prohibitions relating to child care personnel of School Readiness providers pursuant to the CCDBG Act of 2014.⁴¹

Additionally, the bill requires persons who are employed by a School Readiness provider on July 1, 2016, and who have been granted an exemption from disqualification to be rescreened no later than August 1, 2016. The bill ensures that current School Readiness provider personnel are rescreened, regardless of a previous exemption from disqualification, in compliance with the federal prohibitions.

Affidavit of Compliance with Mandatory Child Abuse Reporting

The bill requires each child care facility, family day care home, and large family day care home to annually submit an affidavit of compliance with the mandatory reporting requirements in Florida law.⁴² The change in law is consistent with the new federal requirement that child care personnel of School Readiness providers be familiar and comply with the mandatory child abuse, abandonment, or neglect reporting requirements.

DCF Inspection & Monitoring of School Readiness Providers

The bill requires School Readiness providers to permit access to the DCF to inspect facilities, personnel, and records for the purpose of verifying compliance with the standards established and adopted by OEL. Under the bill, inspection and monitoring of School Readiness providers by the DCF or local licensing agencies must be governed by a memorandum of understanding between OEL and the DCF or local licensing agencies for verifying compliance solely with the standards contained in the statewide provider contract and the health and safety checklist.

³⁹ 42 U.S.C. 9858f(c)(1)(C).

⁴⁰ *Supra* note 24, at 4.

⁴¹ 42 U.S.C. 9858f(c)(1).

⁴² *See* s. 39.201, F.S.

Furthermore, the bill requires that a School Readiness provider's contract be terminated if the provider refuses permission for entry or inspection.

Child Care Information

The bill requires the DCF and local licensing agencies to make electronically available to the public all licensing standards and procedures, health and safety standards for School Readiness providers, monitoring and inspection reports, and the names and addresses of licensed child care facilities, School Readiness providers, and licensed or registered family day care homes.

Additionally, the bill requires the DCF to make publicly available the following information:

- Number of deaths, serious injuries, and instances of substantiated child abuse which have occurred in child care settings each year;
- Research and best practices in child development; and
- Resources regarding social-emotional development, parent and family engagement, healthy eating, and physical activity.

Requiring that such information be made publicly available is consistent with the federal requirements in the CCDBG Reauthorization.

OEL's Duty to Align Standards to the Federal Requirements

Consistent with federal law, the bill requires OEL to:

- Develop and implement strategies to increase the supply and improve the quality of child care services for infants and toddlers, children with disabilities, children who receive care during nontraditional hours, children in underserved areas, and children in areas that have significant concentrations of poverty and unemployment.
- Establish preservice and inservice training requirements addressing, at a minimum:
 - School Readiness child development standards.
 - Health and safety requirements.
 - Social-emotional behavior intervention models.
- Establish standards for emergency preparedness plans.
- Establish group size and staff-to-child ratios.
- Establish eligibility criteria, including income-based limitations and family assets.

Child Eligibility

The bill revises provisions relating to child eligibility to align to the federal requirement that once a child is deemed eligible for School Readiness program services, he or she remains eligible for a minimum of 12 months. Under current law, a child's eligibility may be redetermined at any time based on a change in family income or upon notification of a parent's change in employment status. Consequently, the bill repeals a requirement that each early learning coalition (ELC) redetermine eligibility twice per year for an additional 50 percent of the ELC's enrollment through a statistically valid random sampling.

Pursuant to the CCDBG Reauthorization, the bill provides that if a child's eligibility priority category requires the child to be from a working family, he or she will become ineligible to receive School Readiness program services if the parent does not reestablish employment or

resume attendance at a job training or educational program within 90 days after becoming unemployed or ceasing to attend the job training or educational program. Current law affords a parent 60 days to reestablish employment or resume attendance at a job training or educational program. The change will provide additional time for parents to reestablish employment or resume attendance at a job training or educational program, so that their children may continue to receive School Readiness program services.

Also, the bill authorizes an ELC to temporarily waive the parent's copayment for a child whose family's income is at or below the federal poverty level and whose family experiences a natural disaster or an event that limits the parent's ability to pay. Authorizing waiver of the copayment is consistent with federal law, which contemplates that a copayment not be a barrier to families receiving School Readiness program services.

The bill provides an effective date of July 1, 2016.

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:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 39.201, 39.202, 402.302, 402.3057, 402.306, 402.311, 402.319, 409.1757, 435.07, 1002.82, 1002.84, 1002.87, 1002.88, and 1002.89.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.