

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1079 Child Welfare  
**SPONSOR(S):** Children, Families & Seniors Subcommittee; Burton  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee	13 Y, 0 N, As CS	Grabowski	Brazzell
2) Health Care Appropriations Subcommittee	11 Y, 0 N	Fontaine	Pridgeon
3) Health & Human Services Committee			

### SUMMARY ANALYSIS

The child welfare system identifies families whose children are in danger of suffering or have suffered abuse, abandonment, or neglect and works with those families to address the problems that are endangering children, if possible. If the problems cannot be ameliorated, the child welfare system finds safe out-of-home placements for such children, such as relative and non-relative caregivers, foster families, or adoptive families.

When DCF considers out-of-home placement of a child, it must conduct a criminal background screening related to the prospective placement. This screening includes numerous requirements, among them submission of fingerprints to be checked against federal and state databases. Prospective guardians who have been convicted of certain violent offenses are prohibited from consideration for child placement. Likewise, DCF is required to determine the good moral character of personnel of the child welfare system through background screenings. These screenings also require submission of fingerprints and include a comprehensive review of criminal background information.

DCF contracts for case management, out-of-home care, and related services with lead agencies, also known as community-based care organizations (CBCs). The model of using CBCs to provide child welfare services is designed to increase local community ownership of service delivery and design. The CBCs are funded by an equity allocation model that takes into account the service population of each organization.

CS/HB 1079 establishes an exemption from the fingerprinting component of criminal background screenings for household members in prospective placements who have serious physical, developmental, or cognitive disabilities which prevent the individual from safely submitting fingerprints. This exemption would apply to a very limited number of prospective placements.

The bill also adds a new class of felony offense – those relating to drug abuse and trafficking – to the list of applicable disqualifying offenses in the criminal background screening requirements in s. 435.07(4)(c), F.S., which apply to current and prospective child care personnel.

Lastly, the bill makes changes to DCF's equity allocation model for CBCs, revising the formula that dictates allocation of any additional core services funding to allocate funds more uniformly across all CBCs.

The bill does not have a fiscal impact upon DCF. Each CBC will experience a different level of funding in the event there is additional money appropriated for core service functions; however, recurring base funding levels will remain unchanged.

The bill has an effective date of July 1, 2018.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

##### Child Welfare System

The child welfare system identifies families whose children are in danger of suffering or have suffered abuse, abandonment, or neglect and works with those families to address the problems that are endangering children, if possible. If the problems cannot be ameliorated, the child welfare system finds safe out-of-home placements for such children, such as relative and non-relative caregivers, foster families, or adoptive families.

As of October 31, 2017, 11,909 children were receiving services in their homes, while 24,576 children were in out-of-home care.<sup>1</sup> Out-of-home placements range from temporary placement with a family member to a family foster home to a residential child-caring agency to a permanent adoptive placement with a family previously unknown to the child.<sup>2</sup>

Florida uses funds from a variety of sources for child welfare services, such as the Social Services Block Grant, the Temporary Assistance to Needy Families block grant, Title XIX Medicaid administration, Title IV-B, Title IV-E, various other child welfare grants, and general revenue.

##### Community-Based Care Organizations and Services

DCF contracts for case management, out-of-home care, and related services with lead agencies, also known as community-based care organizations (CBCs). The model of using CBCs to provide child welfare services is designed to increase local community ownership of service delivery and design.<sup>3</sup>

DCF, through the CBCs, administers a system of care<sup>4</sup> for children that is directed toward:

- Prevention of separation of children from their families;
- Intervention to allow children to remain safely in their own homes;
- Reunification of families who have had children removed from their care;
- Safety for children who are separated from their families;
- Promoting the well-being of children through emphasis on educational stability and timely health care;
- Permanency; and
- Transition to independence and self-sufficiency.

CBCs are responsible for providing foster care and related services. These services include, but are not limited to, counseling, domestic violence services, substance abuse services, family preservation, emergency shelter, and adoption.<sup>5</sup> The CBC must give priority to services that are evidence-based and trauma informed.<sup>6</sup> CBCs contract with a number of subcontractors for case management and direct

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<sup>1</sup> Department of Children and Families, *Child Welfare Key Indicators Monthly Report*, November 2017, p. 29, available at [http://centerforchildwelfare.fmhi.usf.edu/qa/cwkeyindicator/KI\\_Monthly\\_Report\\_Nov2017.pdf](http://centerforchildwelfare.fmhi.usf.edu/qa/cwkeyindicator/KI_Monthly_Report_Nov2017.pdf) (last accessed January 9, 2018).

<sup>2</sup> S. 409.175, F.S.

<sup>3</sup> Community-Based Care, The Department of Children and Families, accessible at <http://www.myflfamilies.com/service-programs/community-based-care> (last accessed January 11, 2018).

<sup>4</sup> Id.

<sup>5</sup> Id.

<sup>6</sup> S. 409.988(3), F.S.

care services to children and their families. There are 17 CBCs statewide, which together serve the state's 20 judicial circuits.<sup>7</sup>

Statute requires that DCF provide funding to the CBCs based on an equity allocation model. The model was designed to allocate funds among CBCs based on the particular population served by each organization. The model includes "core services funding", which is defined to mean all funds allocated to the CBCs operating under contract with DCF pursuant to s. 409.987, F.S., with a number of exceptions.<sup>8</sup>

Since fiscal year 2015-2016, recurring core services funding to each CBC has been based fully on the prior year's recurring base funding.<sup>9</sup> Additional core services funding that may become available is distributed based on the equity allocation model, as follows:

- 20 percent of any new funding is allocated among all CBCs;
- 80 percent of any new funding is allocated to CBCs that are currently funded below their equitable share. Funds are weighted based on each CBC's proportion of the total amount of funding below the equitable share.<sup>10</sup>

The equity allocation model dictates that these additional funds be distributed among the CBCs based on the following factors:

- The proportion of the child population in the relevant geographic area being served by the CBC;
- The proportion of the child abuse hotline workload serviced by the CBC; and,
- The proportion of children in care, weighted as 60 percent based on children in out-of-home care and 40 percent based on children in in-home care.<sup>11</sup>

These factors are then used by DCF for funding allocation purposes, with distribution of core services funds for each CBC calculated as follows:

- Proportion of the child population, weighted as 5 percent of the total;
- Proportion of child abuse hotline workload, weighted as 15 percent of the total; and
- Proportion of children in care, weighted as 80 percent of the total.<sup>12</sup>

## Placements of Children in the Child Welfare System

### *In-home with Services*

DCF is required to administer a system of care that endeavors to keep children with their families and provides interventions to allow children to remain safely in their own homes.<sup>13</sup> Protective investigators and CBC case managers can refer families for in-home services to allow a child who would otherwise be unsafe to remain in his or her own home.

### *Out-of-Home Care*

When a child protective investigator determines that in-home services are not enough to allow a child to safely remain in his or her home, the investigator removes the child and places him or her in a safe and appropriate temporary placement. These temporary placements, referred to as out-of-home care,

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<sup>7</sup> Community Based Care Lead Agency Map, The Department of Children and Families, available at: <http://www.myflfamilies.com/service-programs/community-based-care/cbc-map> (last accessed January 12, 2018).

<sup>8</sup> S. 409.991, F.S.

<sup>9</sup> S. 409.991(3), F.S.

<sup>10</sup> S. 409.991(4), F.S.

<sup>11</sup> S. 409.991(1)(e), F.S..

<sup>12</sup> S. 409.991(2), F.S.

<sup>13</sup> *Supra* note 2.

provide housing and services to children until they can return home to their families or achieve permanency with another family through adoption or guardianship.<sup>14</sup>

CBCs must place all children in out-of-home care in the most appropriate available setting after conducting an assessment using child-specific factors.<sup>15</sup> Legislative intent is to place children in a family-like environment when they are removed from their homes. When possible, child protective investigators and lead agency case managers place the children with a relative or responsible adult whom the child knows and with whom they have a relationship. These out-of-home placements are referred to as relative and non-relative caregivers. When a relative or non-relative caregiver placement is not possible, case managers try to place the children in family foster homes licensed by DCF.

Some children have extraordinary needs, such as multiple placement disruptions, mental and behavioral health problems, juvenile justice involvement, or children with disabilities, which may require case managers to place them in residential group care. The primary purpose of residential group care is to provide a setting that addresses the unique needs of children and youth who require more intensive services than a family setting can provide.<sup>16</sup>

#### *Relatives or Non-Relative Caregivers*

Research indicates that children in the care of relatives and non-relatives, such as grandparents or family friends, benefit from increased placement stability and are less likely to change placements as compared to children placed in general foster care. As opposed to children living in foster care, children living in relative and non-relative care are more likely to remain in their own neighborhoods, be placed with their siblings, and have more consistent interactions with their birth parents than do children who are placed in foster care, all of which might contribute to less disruptive transitions into out-of-home care.<sup>17</sup> Relative and non-relative caregivers are not required to be licensed, but do undergo a walk-through of their homes to determine if the homes are appropriate for placing children.

Florida created the Relative Caregiver Program in 1998,<sup>18</sup> to provide financial assistance to eligible relatives caring for children who would otherwise be in the foster care system.

#### *Family Foster Homes*

A family foster home means a licensed private residence in which children who are unattended by a parent or legal guardian are provided 24-hour care. Such homes include emergency shelter family homes and specialized foster homes for children with special needs.<sup>19</sup> Foster homes are licensed<sup>20</sup> and inspected regularly, and foster parents go through a rigorous interview process before being approved.<sup>21</sup>

#### *Residential Group Care*

Residential group care (RGC) placements are licensed by DCF as residential child-caring agencies<sup>22</sup> that provide staffed 24-hour care for children in facilities maintained for that purpose, regardless of

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<sup>14</sup> Office of Program Policy and Government Accountability, Research Memorandum, Florida's Residential Group Care Program for Children in the Child Welfare System (December 22, 2014) (on file with the Children, Families, and Seniors Subcommittee).

<sup>15</sup> Child-specific factors include age, sex, sibling status, physical, educational, emotional, and developmental needs, maltreatment, community ties, and school placement. (Rule 65C-28.004, F.A.C.)

<sup>16</sup> S. 39.521, F.S.

<sup>17</sup> David Rubin and Downes, K., et al., The Impact of Kinship Care on Behavioral Well-being for Children in Out-of-Home Care (June 2, 2008), available at: <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2654276/> (last accessed January 10, 2018).

<sup>18</sup> S. 39.5085, F.S.

<sup>19</sup> *Supra* note 4.

<sup>20</sup> *Id.*

<sup>21</sup> Florida Department of Children and Families, Fostering Definitions, available at <http://www.myfilfamilies.com/service-programs/foster-care/definitions> (last accessed January 10, 2018).

<sup>22</sup> *Supra* note 8.

whether operated for profit or whether a fee is charged. These include maternity homes, runaway shelters, group homes, and emergency shelters.<sup>23</sup> The two primary models of group care are the shift model, with staff working in shifts providing 24-hour supervision, and the family model, which has a house parent or parents that live with and are responsible for 24 hour care of children within the group home.<sup>24</sup>

### Criminal History and Background Screenings

In 1995, the Legislature created standard procedures for criminal history background screening of prospective employees; ch. 435, F.S., outlines the screening requirements. These uniform requirements apply to a wide range of professions and agencies, not just DCF. The screenings required under ch. 435 apply to certain employees of and individuals licensed by, or employed by licensees or contractors of, the Department of Health (DOH), the Agency for Health Care Administration (AHCA), and the Department of Juvenile Justice (DJJ), among others.<sup>25</sup> There are two levels of background screening: level 1 and level 2. Level 1 screening includes, at a minimum, 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.<sup>26</sup> A level 2 background screening includes, but is not limited to, fingerprinting for statewide criminal history records checks through FDLE and national criminal history checks through the Federal Bureau of Investigation (FBI). Both levels may include local criminal records checks through local law enforcement agencies.<sup>27</sup>

Every person required by law to be screened pursuant to ch. 435, F.S., must submit a complete set of information necessary to conduct a screening to his or her employer.<sup>28</sup> Such information for a level 2 screening includes fingerprints, which are taken by a vendor that submits them electronically to FDLE.<sup>29</sup>

For both level 1 and 2 screenings, the employer must submit the information necessary for screening to FDLE within five working days after receiving it.<sup>30</sup> Additionally, for both levels of screening, FDLE must perform a criminal history record check of its records.<sup>31</sup> For a level 1 screening, this is the only information searched, and once complete, FDLE responds to the employer or agency, who must then inform the employee whether screening has revealed any disqualifying information.<sup>32</sup> For level 2 screening, FDLE also requests the FBI to conduct a national criminal history record check of its records for each employee for whom the request is made.<sup>33</sup> As with a level 1 screening, FDLE responds to the employer or agency, and the employer or agency must inform the employee whether screening has revealed disqualifying information.

The person whose background is being checked must supply any missing criminal or other necessary information upon request to the requesting employer or agency within 30 days after receiving the request for the information.<sup>34</sup>

If the employer or agency finds that an individual has a history containing one of these offenses, it must disqualify that individual from employment. However, under certain circumstances, the agency may grant an exemption from disqualification as provided in s. 435.07, F.S. These circumstances include:

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<sup>23</sup> *Supra* note 2.

<sup>24</sup> *Supra* note 8.

<sup>25</sup> S. 435.02(5), F.S.

<sup>26</sup> The Dru Sjodin National Sex Offender Public Website is a U.S. government website that links public state, territorial, and tribal sex offender registries in one national search site. The website is available at <https://www.nsopw.gov/> (last visited March 15, 2016).

<sup>27</sup> S. 435.04, F.S.

<sup>28</sup> S. 435.05(1)(a), F.S.

<sup>29</sup> Ss. 435.03(1) and 435.04(1)(a), F.S.

<sup>30</sup> S. 435.05(1)(b)-(c), F.S.

<sup>31</sup> *Id.*

<sup>32</sup> S. 435.05(1)(b), F.S.

<sup>33</sup> S. 435.05(1)(c), F.S.

<sup>34</sup> S. 435.05(1)(d), F.S.

- Felonies committed more than three years prior to the date of disqualification;
- Misdemeanors prohibited under any of the Florida Statutes cited in the chapter or under similar statutes of other jurisdictions;
- Offenses that were felonies when committed but are now misdemeanors;
- Findings of delinquency; or
- Commissions of acts of domestic violence as defined in s. 741.30, F.S.

Under s. 435.07, F.S., employees bear the burden of proving, by clear and convincing evidence, they should not be disqualified,<sup>35</sup> and have administrative hearing rights under ch. 120, F.S., for denials. However, the DCF may not remove a disqualification for or 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 any felony covered by s. 435.03, F.S. or s. 435.04, F.S., solely by pardon, executive clemency, or restoration of civil rights.<sup>36</sup>

### *Background Screenings in the Child Welfare System*

When DCF considers placement of a child in the child welfare system, it must conduct a criminal background screening related to the prospective placement on all persons under consideration for child placement. In this context, “all persons” means not only the prospective caregiver, but any other individuals living in the household or home – including certain children. The department must conduct a records check through the State Automated Child Welfare Information System (SACWIS)<sup>37</sup> and a local and statewide criminal history records check on all persons, including parents, being considered by the department for placement of a child under this chapter, including all nonrelative placement decisions, and all members of the household, 12 years of age and older, of the person being considered.<sup>38</sup> This records check also requires submission of fingerprints to the Department of Law Enforcement for processing and forwarding to the Federal Bureau of Investigation for state and national criminal history screening.<sup>39</sup>

Statute prohibits DCF from considering out-of-home placements with persons who have been convicted of a felony that falls within any of the following categories:

- Child abuse, abandonment, or neglect;
- Domestic violence;
- Child pornography or other felony in which a child was a victim of the offense; or,
- Homicide, sexual battery, or other felony involving violence, other than felony assault or felony battery when an adult was the victim of the assault or battery.<sup>40</sup>

Moreover, DCF may not place a child with a person other than a parent if that person has been convicted of assault, battery, or a drug-related offense within the previous five years.<sup>41</sup> In addition to other parameters on criminal history, these requirements prevent the placement of children with individuals who have a history of violent behavior. Pursuant to s. 39.0138(7), F.S., a person seeking placement of a child who is denied that placement due to the results of a criminal background screening has the burden of setting forth evidence to demonstrate that he or she will not present a danger to the child in question.

Likewise, DCF is required to determine the good moral character of personnel of the child welfare system,<sup>42</sup> through background screenings, as provided for in chapter 435, F.S.<sup>43</sup> “Personnel” includes

<sup>35</sup> The employee must set forth sufficient evidence of rehabilitation, such as the circumstances surrounding the criminal incident, the time period that has elapsed since the incident, the nature of the harm to the victim, and the history of the employee since the incident.

<sup>36</sup> Section 435.07(4), F.S.

<sup>37</sup> Florida’s SACWIS system is the Florida Safe Families Network (FSFN).

<sup>38</sup> S. 39.0138, F.S.

<sup>39</sup> Id.

<sup>40</sup> S. 39.0138(2), F.S.

<sup>41</sup> S. 39.0138(3), F.S.

<sup>42</sup> S. 409.175(5)(a), F.S.

all owners, operators, employees, and volunteers working in a child-placing agency, family foster home, or residential child-caring agency.<sup>44</sup> Statute also requires family members and persons between the ages of 12 and 18 residing with the owner or operator of a family foster home or agency to have a delinquency record check but does not require fingerprinting of these individuals.<sup>45</sup>

### Child Care Licensure

Pursuant to ch. 402, F.S., DCF is also charged with the regulation of child care facilities, family day care homes, and large family child care homes, including those that are also School Readiness providers. Statute requires these providers' personnel to have good moral character based upon screening.<sup>46</sup> Additionally, some entities caring for children are not subject to regulation by DCF's child care program but their personnel are subject to background screening.<sup>47</sup> Screening must be conducted as provided in chapter 435 using level 2 standards.<sup>48</sup>

### *Child Care and Development Block Grant*

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 child care. OCC 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.<sup>49</sup>

Florida's Office of Early Learning (OEL)<sup>50</sup> 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.<sup>51</sup> The School Readiness program receives funding from a mix of state and federal sources, including the federal Child Care and Development Block Grant (CCDBG), the federal Temporary Assistance for Needy Families (TANF) block grant, general revenue and other state funds.<sup>52</sup> The school readiness program gives subsidies for child care services and early childhood education to low-income families and for children in protective services who are at risk of abuse, neglect, or abandonment; and children with disabilities.

The program uses a variety of providers, such as licensed and unlicensed child care providers and public and nonpublic schools.<sup>53</sup> 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 many, but not all, child care providers that provide early learning programs.<sup>54</sup>

On November 19, 2014, the Child Care and Development Block Grant (CCDBG) Act of 2014 was signed into law. The new law prescribed health and safety requirements that apply to school readiness

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<sup>43</sup> S. 409.175(2)(k), F.S.

<sup>44</sup> S. 409.175(2)(i), F.S.

<sup>45</sup> Id.

<sup>46</sup> S. 402.305(2), F.S.

<sup>47</sup> For example, a child care facility that is an integral part of a church or parochial schools meeting certain requirements. s. 402.316, F.S.

<sup>48</sup> Id.

<sup>49</sup> Office of Child Care, *What We Do*, at <http://www.acf.hhs.gov/programs/occ/about/what-we-do> (last visited Nov. 13, 2015).

<sup>50</sup> 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.

<sup>51</sup> Part VI, ch. 1002, F.S.; 42 U.S.C. ss. 618 & 9858-9858q.

<sup>52</sup> Specific Appropriation 88, s. 2, ch. 2014-51, L.O.F.

<sup>53</sup> Section 1002.88(1)(a), F.S.

<sup>54</sup> See ss. 402.301-319, F.S., and Part VI, ch. 1002, F.S.

program providers and required better information to parents and the general public about available child care choices.<sup>55</sup>

Based on the new requirements of the CCDBG, to continue to receive federal funding, states must require that screening for child care staff 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.<sup>56</sup> Additionally, a state must make ineligible for employment by school readiness providers any person who is registered, or is required to be registered, on a state sex offender registry or the National Sex Offender Registry<sup>57</sup> or has been convicted 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;
- A drug-related offense committed during the preceding 5 years; or
- A violent misdemeanor committed as an adult against a child, including the following crimes: child abuse, child endangerment, sexual assault, or of a misdemeanor involving child pornography.<sup>58</sup>

In 2016, the Legislature aligned the state's child care personnel screening standards with the CCDBG Act of 2014 requirements, specifying new screening requirements in ch. 402 and including these limitations on granting disqualifications in ch. 435.<sup>59</sup>

## Effect of Proposed Changes

HB 1079 makes several changes to the background screening requirements applicable to both prospective child placements and departmental personnel. The bill also modifies the list of criminal offenses that would permanently disqualify an individual from being considered as a prospective placement for a child. Lastly, the bill adjusts the equity allocation formula for community-based care organizations.

### Background Screenings

#### *Child Care*

The bill adds drug abuse or drug trafficking offenses to the existing list of disqualifying offenses that permanently disqualify an individual from working as child care personnel. This elects the option available under federal law for states to choose whether to make such offenses permanently disqualifying. The bill also details background screening requirements for child care personnel that are currently captured in the definition of "screening" in s. 402.302(15), F.S., more fully in s. 402.305, F.S. For example, these requirements include searches of criminal history records and sexual offender registries of any state in which a current or prospective child care personnel resided during the past five years.

#### *Child Welfare Placements*

<sup>55</sup> Office of Child Care, *CCDF Reauthorization*, at <http://www.acf.hhs.gov/programs/occ/ccdf-reauthorization> (last visited Nov. 13, 2015).

<sup>56</sup> Pub. L. No. 113-186, 128 Stat. 1971, Sec. 658H(b).

<sup>57</sup> 42 U.S.C. s. 9858f(c)(1)(C).

<sup>58</sup> 42 U.S.C. s. 9858f(c)(1).

<sup>59</sup> Ch. 2106-238 amended s. 435.07, F.S.



The bill establishes an explicit exemption from the criminal history records requirements set forth in s. 39.0138, F.S., for a household member with physical, developmental, and cognitive disabilities which prevent him or her from being fingerprinted. This exemption does not apply to the prospective caregiver or guardian but rather to another member of the prospective household in which a child would be placed. This would include any other permanent residents in the prospective home, 12 years of age or older, and would apply to both relative and non-relative placements. In cases where DCF determines that this exemption is implicated, the department must assess how or if the exemption impacts the safety and well-being of the child or children to be placed in the home. On a practical level, this exemption will apply to a very limited number of situations. Since without fingerprints, DCF cannot conduct a full level 2 background screening, DCF must instead conduct a level 1 screening of these individuals. Level 1 screening still involves a thorough review of criminal history and relevant records, though provides a more limited amount of information than would a fingerprint-based search.

The bill also modifies felony offense restrictions applicable to prospective child placements, as outlined in s. 39.0138, F.S. The bill changes “resisting arrest with violence” from an offense that permanently precludes an individual from consideration as a child placement to one that precludes DCF from considering an individual as a prospective placement for a period of five years following conviction.

The bill also revises corresponding criminal history requirements included in s. 409.175(2), F.S., for foster homes licensure. The bill would give DCF limited ability to waive a fingerprinting requirement for an adult household member with a “severe disability” that precludes the fingerprinting process. HB 1079 defines a “severe disability” as a physical, developmental, or cognitive limitation affecting an individual's ability to safely submit fingerprints.

#### Community Based Care Equity Allocation Model

The bill makes changes to DCF's equity allocation model for CBCs, as described in s. 409.991, F.S.

The bill directs DCF to distribute available core services funds to each CBC through the following formula:

- Proportion of the child population, remaining as 5 percent of the total;
- Proportion of child abuse hotline workload, weighted as 35 percent of the total rather than 15 percent; and
- Proportion of children in care, weighted as 60 percent of the total, rather than 80 percent. The proportion of children in care is calculated based on 55 percent weight for children in out-of-home care (instead of 60 percent), 30 percent weight for on children in in-home care (instead of 40 percent), and 15 percent weight based on children in family support services (a new element).

Additional core services funding that may become available is distributed based on the equity allocation model, as follows:

- 70 percent of any new funding is allocated among all CBCs;
- 30 percent of any new funding is allocated to CBCs that are currently funded below their equitable share. Funds are weighted based on each CBC's proportion of the total amount of funding below the equitable share.

The bill has an effective date of July 1, 2018.

#### B. SECTION DIRECTORY:

- Section 1:** Amends s. 39.0138, F.S., relating to criminal history and other records checks; limit on placement of a child.
- Section 2:** Amends s. 402.305, F.S., relating to licensing standards; child care facilities.
- Section 3:** Amends s. 409.175, F.S., relating to licensure of family foster homes, residential child-caring agencies, and child-placing agencies; public records exemption.
- Section 4:** Amends s. 409.991, F.S., relating to allocation of funds for community based care lead agencies.
- Section 5:** Amends s. 435.07, F.S., relating to exemptions from disqualification.
- Section 6:** Provides an effective date of July 1, 2018.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will have an indeterminate impact on the contracted CBCs due to the proposed modification of the equity allocation formula. If new funding is made available, some CBCs may receive a greater proportion of the additional funding and others will receive less. The individual impacts will be affected by the total amount of new funding and the values of the weighted factors prescribed by the equity allocation formula.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The bill gives the department the authority to develop rules related to the proposed fingerprinting exemption.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 17, 2018, the Children, Families, and Seniors Subcommittee adopted a strike-all amendment that revised standards for required criminal background screenings and adjusted the CBC equity allocation funding model. The amendment requires a level 1 background screening for individuals exempted from providing fingerprints due to certain disabilities. The amendment prohibits the placement of a child with an individual with a felony conviction for resisting arrest with violence during only the five years after conviction, rather than permanently. It also details requirements for screening child care personnel to align with federal law, and adds another crime for which exemptions from disqualification to work as child care personnel cannot be granted.

With regards to the CBC equity allocation model, the amendment revises the formula as follows:

- Changes the method for calculating the “proportion of children in care”, and weights it less;
- Increases the weight of the proportion of child abuse hotline workload, to be 35% rather than 15%; and
- Reduces the amount of new funding allocated to lead agencies funded below their equitable share, from 80% to 30%.

The bill was reported favorably as a committee substitute. The analysis is drafted to the committee substitute as passed by the Children, Families, and Seniors Subcommittee.