

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1079 Child Welfare

SPONSOR(S): Health & Human Services Committee; 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 | 19 Y, 0 N, As CS | Grabowski | Calamas |

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. CS/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 requires parents to actively engage with DCF and case managers during the dependency case process and requires the court to consider engagement levels when making child permanency decisions.

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. The bill changes the equity allocation model to allocate funds more uniformly across all CBCs.

The bill also adds offenses relating to drug abuse and trafficking to the list of disqualifying offenses in the criminal background screening requirements for child care personnel. The bill limits the disqualification for these offenses to five years.

The bill also modifies child care facility regulation related to transportation, and requires facilities to provide parents information on the dangers of leaving children in vehicles.

The bill redirects the results of abuse registry checks for private adoptions, and amends home study and training requirements for such adoptions.

Finally, the bill requires development of a reviser's bill to capitalize the term "child protection team" in the Florida Statutes.

The bill has no fiscal impact upon DCF or local governments. 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.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1079e.HHS

DATE: 2/18/2018

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.¹ 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.²

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.³

DCF, through the CBCs, administers a system of care⁴ 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.⁵ The CBC must give priority to services that are evidence-based and trauma informed.⁶ CBCs contract with a number of subcontractors for case management and direct care services to children and their families. There are 17 CBCs statewide, which together serve the

¹ 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 (last accessed January 9, 2018).

² S. 409.175, F.S.

³ 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).

⁴ Id.

⁵ Id.

⁶ S. 409.988(3), F.S.

state's 20 judicial circuits.⁷ The CBCs employ case managers that serve as the primary link between the child welfare system and families with children under DCF supervision. These case managers work with affected families to ensure that a child reaches his or her permanency goal in a timely fashion.⁸

Current law 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.⁹

Since Fiscal Year 2015-2016, recurring core services funding to each CBC has been based fully on the prior year's recurring base funding.¹⁰ 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.¹¹

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.¹²

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.¹³

Dependency Case Planning

When child welfare necessitates that DCF remove a child from his or her home, a series of dependency court proceedings must occur to adjudicate the child dependent and place him or her in out-of-home care.

Throughout the dependency process, DCF must develop and refine a case plan with input from all parties to the dependency case that details the problems being addressed as well as the goals, tasks, services, and responsibilities required to ameliorate the concerns of the state.¹⁴ The case plan follows the child from the provision of voluntary services through dependency, or termination of parental rights.¹⁵ Once a child is found dependent, a judge reviews the case plan, and if the judge accepts the case plan as drafted, orders the case plan to be followed.¹⁶

⁷ 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).

⁸ S. 409.988(1), F.S.

⁹ S. 409.991, F.S.

¹⁰ S. 409.991(3), F.S.

¹¹ S. 409.991(4), F.S.

¹² S. 409.991(1)(e), F.S..

¹³ S. 409.991(2), F.S.

¹⁴ Ss, 39.6011 and 39.6012, F.S.

¹⁵ S. 39.01(11), F.S.

¹⁶ S. 39.521, F.S.

Section 39.6011, F.S., details the development of the case plan and who must be involved, such as the parent, guardian ad litem, and if appropriate, the child. This section also details what must be in the case plan, such as descriptions of the identified problems, the permanency goal, timelines, and notice requirements.

Section 39.6012, F.S., details the types of tasks and services that must be provided to the parents as well as the type of care that must be provided to the child. The services must be designed to improve the conditions in the home, facilitate the child's safe return to the home, ensure proper care of the child, and facilitate permanency. The case plan must describe each task with which the parent must comply and the services provided that address the identified problem in the home and all available information that is relevant to the child's care.

When determining whether to place a child back into the home from which he or she was removed, or whether to move forward with another permanency option, the court seeks to determine whether the circumstances that caused the out-of-home placement have been remedied to the extent that the safety, well-being and health of the child are not endangered by an in-home placement.¹⁷ To support the permanency goal, the court continues to monitor a parent's efforts to comply with the tasks assigned in the case plan.¹⁸

The Dependency Process

| Dependency Proceeding | Description of Process | Controlling Statute |
|---|--|---|
| Removal | The child's home is determined to be unsafe, and the child is removed. | s. 39.401, F.S. |
| Shelter Hearing | A shelter hearing occurs within 24 hours after removal. The judge determines whether to keep the child out-of-home. | s. 39.401, F.S. |
| Petition for Dependency | A petition for dependency occurs within 21 days of the shelter hearing. This petition seeks to find the child dependent. | s. 39.501, F.S. |
| Arraignment Hearing and Shelter Review | An arraignment and shelter review occurs within 28 days of the shelter hearing. This allows the parent to admit, deny, or consent to the allegations within the petition for dependency and allows the court to review any shelter placement. | s. 39.506, F.S. |
| Adjudicatory Trial | An adjudicatory trial is held within 30 days of arraignment. The judge determines whether a child is dependent during this trial. | s. 39.507, F.S. |
| Disposition Hearing | If the child is found dependent, disposition occurs within 15 days of arraignment or 30 days of adjudication. The judge reviews the case plan and placement of the child. The judge orders the case plan for the family and the appropriate placement of the child. | s. 39.506, F.S. s. 39.521, F.S. |
| Judicial Review Hearings | The court must review the case plan and placement every 6 months, or upon motion of a party. | s. 39.701, F.S. |
| Petition for Termination of Parental Rights | Once the child has been out of home for 12 months, if DCF determines that reunification is no longer a viable goal, termination of parental rights is in the best interest of the child, and other requirements are met, a petition for termination of parental rights is filed. | s. 39.802, F.S. s. 39.8055, F.S. s. 39.806, F.S. s. 39.810, F.S. |
| Advisory Hearing | This hearing is set as soon as possible after all parties have been served with the petition for termination of parental rights. The hearing allows the parent to admit, deny, or consent to the allegations within the petition for termination of parental rights. | s. 39.808, F.S. |
| Adjudicatory Trial | An adjudicatory trial shall be set within 45 days after the advisory hearing. The judge determines whether to terminate parental rights to the child at this trial. | s. 39.809, F.S. |

¹⁷ S. 39.522, F.S.

¹⁸ S. 39.621, F.S.

Placements of Children in the Child Welfare System

In-Home Services and Out-of-Home Care

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.¹⁹ 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.

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, provide housing and services to children until they can return home to their families or achieve permanency with another family through adoption or guardianship.²⁰

CBCs must place all children in out-of-home care in the most appropriate available setting after conducting an assessment using child-specific factors.²¹ Legislative intent is to place children in a family-like environment when they are removed from their homes.²² 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.²³

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.²⁴ 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 1998²⁵ to provide financial assistance to eligible relatives caring for children who would otherwise be in the foster care system.

Family Foster Homes

¹⁹ S. 409.145(1), F.S.

²⁰ 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).

²¹ 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.)

²² S. 39.001(1), F.S.

²³ *Supra* note 16.

²⁴ 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).

²⁵ S. 39.5085, F.S.

A family foster home is a licensed private residence in which children who are unattended by a parent or legal guardian receive 24-hour care. Such homes include emergency shelter family homes and specialized foster homes for children with special needs.²⁶ Foster homes are licensed²⁷ and inspected regularly, and foster parents go through a rigorous interview process before being approved.²⁸

Residential Group Care

Residential group care (RGC) placements are licensed by DCF as residential child-caring agencies²⁹ that provide staffed 24-hour care for children in facilities maintained for that purpose, regardless of whether operated for profit or whether a fee is charged. These include maternity homes, runaway shelters, group homes, and emergency shelters.³⁰ 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.³¹

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.³² There are two levels of background screening. 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.³³ 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.³⁴

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.³⁵ Such information for a level 2 screening includes fingerprints, which are taken by a vendor that submits them electronically to FDLE.³⁶

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.³⁷ Additionally, for both levels of screening, FDLE must perform a criminal history record check of its records.³⁸ 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.³⁹ For level 2 screening, FDLE also requests the FBI to conduct a national criminal history record check of its records

²⁶ *Supra* note 2.

²⁷ *Id.*

²⁸ Florida Department of Children and Families, *Fostering Definitions*, available at <http://www.myfilfamilies.com/service-programs/foster-care/definitions> (last accessed January 10, 2018).

²⁹ *Supra* note 20.

³⁰ *Supra* note 2.

³¹ *Supra* note 20.

³² S. 435.02(5), F.S.

³³ 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).

³⁴ S. 435.04, F.S.

³⁵ S. 435.05(1)(a), F.S.

³⁶ Ss. 435.03(1) and 435.04(1)(a), F.S.

³⁷ S. 435.05(1)(b)-(c), F.S.

³⁸ *Id.*

³⁹ S. 435.05(1)(b), F.S.

for each employee for whom the request is made.⁴⁰ 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.⁴¹

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:

- 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,⁴² 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.⁴³ The felonies included in these sections are numerous, but are primarily violent offenses or offenses in which children are the primary victims.

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 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)⁴⁴ 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.⁴⁵ 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.⁴⁶

Current law 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.⁴⁷

⁴⁰ S. 435.05(1)(c), F.S.

⁴¹ S. 435.05(1)(d), F.S.

⁴² 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.

⁴³ Section 435.07(4), F.S.

⁴⁴ Florida’s SACWIS system is the Florida Safe Families Network (FSFN).

⁴⁵ S. 39.0138, F.S.

⁴⁶ Id.

⁴⁷ S. 39.0138(2), F.S.

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.⁴⁸ 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 must determine the good moral character of personnel of the child welfare system,⁴⁹ through background screenings, as provided for in ch. 435, F.S.⁵⁰ "Personnel" includes all owners, operators, employees, and volunteers working in a child-placing agency, family foster home, or residential child-caring agency.⁵¹ Current law 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.⁵²

Child Care Licensure

Pursuant to ch. 402, F.S., DCF is also charged with regulating child care facilities, family day care homes, and large family child care homes, including those that are also school readiness providers.⁵³ Current law requires these providers' personnel to have good moral character based upon screening.⁵³ 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.⁵⁴ Screening must be conducted as provided in ch. 435, F.S., using level 2 standards.⁵⁵

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.⁵⁶

Florida's Office of Early Learning (OEL)⁵⁷ 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.⁵⁸ 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.⁵⁹ 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.

⁴⁸ S. 39.0138(3), F.S.

⁴⁹ S. 409.175(5)(a), F.S.

⁵⁰ S. 409.175(2)(k), F.S.

⁵¹ S. 409.175(2)(i), F.S.

⁵² Id.

⁵³ S. 402.305(2), F.S.

⁵⁴ 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.

⁵⁵ Id.

⁵⁶ Office of Child Care, *What We Do*, available at <http://www.acf.hhs.gov/programs/occ/about/what-we-do> (last visited Nov. 13, 2015).

⁵⁷ 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.

⁵⁸ Part VI, ch. 1002, F.S.; 42 U.S.C. ss. 618 & 9858-9858q.

⁵⁹ Specific Appropriation 88, s. 2, ch. 2014-51, L.O.F.

The program uses a variety of providers, such as licensed and unlicensed child care providers and public and nonpublic schools.⁶⁰ The DCF Office of Child Care Regulation, 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.⁶¹

On November 19, 2014, the Child Care and Development Block Grant Act of 2014 was signed into law. The new law prescribed health and safety requirements that apply to school readiness program providers and required better information to parents and the general public about available child care choices.⁶²

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.⁶³ 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 Registry⁶⁴ 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.⁶⁵

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, F.S., and including these limitations on granting disqualifications in ch. 435, F.S.⁶⁶

Children Left in Vehicles

Heatstroke is one of the leading causes of pediatric deaths.⁶⁷ Since 1998, 742 children in the United States have died due to pediatric vehicular heatstroke.⁶⁸ Parents or other caregivers may accidentally forget a child in the backseat of a car, especially if there is a sudden change in that parent's or caregiver's routine.⁶⁹ The temperature of a hot vehicle can rise 20 degrees in just 10 minutes.⁷⁰ At an

⁶⁰ Section 1002.88(1)(a), F.S.

⁶¹ See ss. 402.301-319, F.S., and Part VI, ch. 1002, F.S.

⁶² Office of Child Care, *CCDF Reauthorization*, available at <http://www.acf.hhs.gov/programs/occ/ccdf-reauthorization> (last visited Nov. 13, 2015).

⁶³ Pub. L. No. 113-186, 128 Stat. 1971, Sec. 658H(b).

⁶⁴ 42 U.S.C. s. 9858f(c)(1)(C).

⁶⁵ 42 U.S.C. s. 9858f(c)(1).

⁶⁶ Ch. 2106-238 amended s. 435.07, F.S.

⁶⁷ National Highway Safety Administration, *Child Safety - Heatstroke*, <https://www.nhtsa.gov/road-safety/child-safety> (last visited Feb. 14, 2018).

⁶⁸ As of January 2, 2018. No Heatstroke.com, <http://noheatstroke.org/> (last visited Feb. 14, 2018).

⁶⁹ *Supra* note 67.

⁷⁰ Florida Department of Children and Families, *Summer Safety Tips – High Temperatures and Hot Cars*, available at <http://www.myflfamilies.com/service-programs/child-welfare/high-temperatures> (last visited Feb. 14, 2018).

outside temperature of 60 degrees, the temperature inside a car can reach 110 degrees.⁷¹ This heat is especially deadly for children because their body temperatures rise five times faster than adults.⁷²

In Florida, 83 children have died due to being left in hot vehicles since 1998. Of these deaths, 55 resulted from one or both parents leaving their child in the car.⁷³ DCF provides the following tips to prevent hot car deaths:

- Be sure to check the back seat before you leave the vehicle.
- Put your purse, briefcase, lunch, etc. in the backseat so you are sure to look before you lock the door.
- Do not let your children play near vehicles; they may accidentally lock themselves in a vehicle.⁷⁴

In addition, the Child Care Facility Handbook developed by DCF provides transportation standards that must be maintained by child care facilities, family day care homes, and large family child care homes.⁷⁵ As a condition of licensure, these facilities must maintain detailed logs when transporting children. The standards do not explicitly address the dangers of heatstroke, but are intended to prevent scenarios in which a child is left unattended in a facility-operated vehicle.⁷⁶ When children are transported to and from the facility by parents or guardians, the facility must maintain daily attendance records. If a child is absent without prior notification from a parent or guardian, the facility must communicate with that child's parent or guardian within one hour the child's scheduled arrival. If child care personnel are unable to reach the child's parent/guardian, emergency contacts must then be notified.⁷⁷

Private Adoptions

Section 63.092(3), F.S., requires prospective adoptive parents in private adoption proceedings to undergo a preliminary home study to determine their suitability as adoptive parents.⁷⁸ A DCF-licensed child-placing agency or child-caring agency generally conducts the preliminary home study, which includes, among other things, a records check of the prospective parents in DCF's central abuse registry and counseling and education of the intended adoptive parents on adoptive parenting.⁷⁹

Currently, the statute does not require the results of DCF's record check to be given directly to the entity conducting the preliminary home study. This provision also does not specify what the counseling and education requirements are for prospective adoptive parents in private proceedings; however, DCF imposes the same training requirements it uses for licensing and training prospective foster care parents and emergency shelter parents pursuant to s. 407.175, F.S.⁸⁰ This training is designed to prepare prospective foster care parents and emergency shelter parents for the unique difficulties they will have to face when caring for children in dependency proceedings with a history of abuse, neglect, or prior placement disruptions.⁸¹

⁷¹ National Highway Safety Administration, *Tips to Avoid Child Heatstroke*, available at <https://www.nhtsa.gov/child-safety/tips-avoid-child-heatstroke> (last visited Feb. 14, 2018).

⁷² *Supra* note 70.

⁷³ Spreadsheet provided by Jan Null, CCM Department of Meteorology & Climate Science, San Jose State University (on file with the Children, Families, and Seniors Subcommittee).

⁷⁴ *Supra* note 70.

⁷⁵ Department of Children and Families, *Child Care Facility Handbook*, last updated October 2017. Available at <http://www.dcf.state.fl.us/programs/childcare/docs/handbook/Facility%20Handbook.pdf> (last accessed February 17, 2018).

⁷⁶ *Id.*, at 14-15.

⁷⁷ *Id.*, at 59.

⁷⁸ S. 63.092(3), F.S.

⁷⁹ S. 63.092(3), F.S.

⁸⁰ Rules 65C-15.028, 65C-16.005(4), and 65C-13.024, F.A.C.; and s. 409.175(14), F.S.

⁸¹ S. 409.175(14), F.S. One of the training requirements for these parents is 21 hours of preservice training to orient them; explain their role as a treatment team member; prepare them for issues involved in the transition of a child into and out of foster care and emergency shelter care; teach them to manage difficult child behavior intensified by placement, prior abuse or neglect, or prior placement disruptions; prevent placement disruptions; teach them how to care for children at various developmental levels; and educate them on the effects of foster parenting on their families.

Child Protection Teams

A child protection team (CPT) is a medically directed, multidisciplinary team that supplements the child protective investigation efforts of DCF and local sheriffs' offices in cases of child abuse and neglect.⁸² CPTs are independent community-based programs that provide expertise in evaluating alleged child abuse and neglect, assess risk and protective factors, and provide recommendations for interventions to protect children and enhance a caregiver's capacity to provide a safer environment when possible.⁸³ The Department of Health (DOH) Children's Medical Services (CMS) program contracts for CPT services with local community-based programs.⁸⁴ CPTs across the state are divided into 15 districts and provide services to all 67 counties by utilizing satellite offices and telemedicine sites.⁸⁵

Effect of Proposed Changes

CS/CS/HB 1079 makes numerous changes to statutes addressing the welfare of children. The bill:

- Requires parents to actively engage with dependency case managers and the court to consider engagement levels during certain dependency hearings;
- Modifies child welfare background screening requirements applicable to both prospective child placements and personnel;
- Amends the list of criminal offenses that would permanently disqualify an individual from being considered as a prospective placement for a child;
- Requires child care facilities, family day care homes, and large family child care homes to provide information to parents about the dangers of leaving children unattended in vehicles and resources to prevent these events;
- Adjusts the equity allocation formula for community-based care organizations; and,
- Modifies training requirements and abuse registry check procedures related to private adoptions.

Dependency Process

The bill specifies that the birth of a child into a family that is currently involved in an open dependency case in which a parent or guardian has been determined unfit to care for another child constitutes "abuse" for the purpose of child welfare proceedings. This change would give DCF the authority to intervene with these families to protect the newborn child.

The bill modifies the responsibilities of parents regarding engagement with case managers. Parents must provide accurate contact information to DCF or the case manager and update that information as appropriate. In addition, parents must proactively contact DCF or the case manager at least once every 14 days to provide a status update on relevant case plan tasks. The bill also requires the court to consider the engagement level of parents throughout the dependency process prior to making determinations on the permanency of a child. The court must consider the level of case plan compliance demonstrated by a parent or guardian, and also the level of engagement demonstrated by that parent or guardian. This new requirement applies to both the permanency hearing and follow-up judicial hearings, when the court makes determinations on the appropriateness of a child's permanent placement.

⁸² Florida Department of Health, Children's Medical Services. *Child Protection Teams*. Available at http://www.floridahealth.gov/AlternateSites/CMS-Kids/families/child_protection_safety/child_protection_teams.html (last visited March 10, 2015).

⁸³ Id.

⁸⁴ Section 39.303, F.S.

⁸⁵ Children's Medical Services, *Child Protection Teams: CPT Statewide Directory*, available at <http://www.floridahealth.gov/alternatesites/cms-kids/home/contact/cpt.pdf> (last accessed March 12, 2015).

Background Screenings

Child Care Personnel

The bill adds drug abuse or drug trafficking offenses to the existing list of offenses that disqualify an individual from working as child care personnel, but only for five years after an offense is committed. This elects the option available under federal law for states to make such offenses disqualifying for a period of five years after an offense is committed, as opposed to permanently. 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

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, it must assess whether and how the exemption affects 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 home 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. The bill defines a “severe disability” as a physical, developmental, or cognitive limitation affecting an individual's ability to safely submit fingerprints.

Child Care Facilities

The bill amends transportation safety responsibilities of child care facilities, family day care homes, and large family child care homes. Under the bill, these facilities must provide parents of supervised children with information on the dangers of leaving children unattended in vehicles. This information must be provided biannually in April and September of each year, at a minimum. The bill requires DCF to develop a flyer or brochure containing information on the dangers of leaving children in vehicles, including suggestions intended to prevent such events. This document must be posted to the DCF website, and facilities may choose to reproduce the information to meet their responsibilities to parents of supervised children.

The bill also specifies that DCF require facilities to develop procedures to ensure that children are not left in vehicles when being transported using facility-owned or operated vehicles as a condition of licensure. At a minimum, the licensure standards will require that facilities implement procedures designed to ensure that children are not left unattended in facility-operated vehicles.

The bill also specifies that facilities are not responsible for children who are transported by a parent or guardian. Accordingly, facilities would no longer be responsible for proactively communicating with a parent or guardian, or emergency contacts, in cases of absence or late arrivals.

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. It directs DCF to allocate new core services funds that may become available in the future using the following formula:

- Proportion of the child population, weighted as 5 percent of the total (consistent with the current formula);
- 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 children in in-home care (instead of 40 percent), and 15 percent weight based on children in family support services (a new element).

Once these calculations are used to determine core services allocations, DCF must then distribute any additional core services funding that may become available to CBCs based on the following equity allocation model:

- 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.

Recurring core services funding to the CBCs is not changed under the bill. However, should additional funds be made available in the future, the revised equity allocation formula would dictate the distribution of those funds, unless directed otherwise in the General Appropriations Act. Some CBCs would receive a greater share of new funds under the revised formula, whereas others would receive less.

Private Adoptions

The bill requires DCF to give the results of record checks of its central abuse registry of intended adoptive parents directly to the entity conducting the preliminary home study in private adoption proceedings to ensure the integrity of the reports.

The bill allows the entity conducting the preliminary home study in private adoption proceedings to determine the counseling and education requirements for the intended adoptive parents. The bill exempts adoptive parents in private adoption proceedings from the training requirements of s. 409.175(14), F.S., involving adoptive parents in dependency proceedings.

Child Protection Teams

The bill also directs the Legislative Division of Law Revision and Information to work with appropriate Committees of the House of Representatives and the Senate in the development of a reviser's bill for the 2019 legislative session that would capitalize each word of the term "child protection team" wherever that term occurs in the Florida Statutes.

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

B. SECTION DIRECTORY:

Section 1: Amends s. 39.01, F.S., relating to definitions.

- Section 2:** Amends s. 39.0138, F.S., relating to criminal history and other records checks; limit on placement of a child.
- Section 3:** Amends s. 39.6012, F.S., relating to case plan tasks; services.
- Section 4:** Amends s. 39.6013, F.S., relating to case plan amendments.
- Section 5:** Amends s. 39.621, F.S., relating to permanency determination by the court.
- Section 6:** Amends s. 39.701, F.S., relating to judicial review.
- Section 7:** Amends s. 63.092, F.S., relating to report to the court of intended placement by an adoption entity; at-risk placement; preliminary study.
- Section 8:** Amends s. 402.305, F.S., relating to licensing standards; child care facilities.
- Section 9:** Amends s. 402.30501, F.S., relating to modification of introductory child care course for community college credit authorized.
- Section 10:** Amends s. 402.313, F.S., relating to family day care homes.
- Section 11:** Amends s. 402.3131, F.S., relating to large family child care homes.
- Section 12:** 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 13:** Amends s. 409.991, F.S., relating to allocation of funds for community based care lead agencies.
- Section 14:** Amends s. 435.07, F.S., relating to exemptions from disqualification.
- Section 15:** Amends s. 1002.55, F.S., relating to school-year prekindergarten program delivered by private prekindergarten providers.
- Section 16:** Amends s. 1002.57, F.S., relating to prekindergarten director credential.
- Section 17:** Amends s. 1002.59, F.S., relating to emergent literacy and performance standards training courses.
- Section 18:** Directs the Division of Law Revision and Information to prepare a reviser's bill for the 2019 Regular Session of the Legislature.
- Section 19:** 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%.

On February 15, 2018, the Health and Human Services Committee adopted five amendments and reported CS/HB 1079 favorably as a committee substitute. The amendments:

- Limit the drug abuse-related felony disqualification from employment as child care personnel to five years after the felony was committed, rather than permanently;
- Specify that the birth of a child into a family that is currently involved in an open dependency case in which a parent or guardian has been determined unfit to care for another child constitutes “abuse” for the purpose of child welfare proceedings;
- Require parents with children in the dependency case process to give DCF accurate contact information and make proactive contact with a case worker at least once every 14 days;
- Require the court to consider the engagement efforts of parents and whether those efforts meet case plan requirements when making permanency decisions;

- Require DCF to give the results of record checks of intended adoptive parents in its central abuse registry directly to the entity conducting the preliminary home study in private adoption proceedings;
- Allow the entity conducting the preliminary home study in private adoption proceedings to determine the counseling and education requirements for the intended adoptive parents;
- Exempt adoptive parents in private adoption proceedings from certain training requirements, specifying that those requirements only apply for adoptive parents in dependency proceedings;
- Require child care facilities, family day care homes, and large family child care homes to provide information to parents about the dangers of leaving children unattended in vehicles and resources to prevent such occurrences;
- Require DCF to develop a flyer or brochure that summarizes the dangers of leaving children in vehicles and post the document to the department's website;
- Require child care facilities to implement procedures to ensure that children are not left in vehicles when transported by the child care facility, and states that child care facilities are not responsible for children when they are transported by parents or guardians; and,
- Require the Division of Law Revision and Information, with assistance from relevant House and Senate Committees, to prepare a reviser bill during the 2019 General Session that capitalizes the term "child protection team" wherever it occurs in Florida Statutes.

The analysis is drafted to the committee substitute as passed by the Health and Human Services Committee.