

By Senator Harrell

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1 A bill to be entitled
2 An act relating to the temporary care of a child;
3 providing a short title; defining terms; requiring a
4 certain organization to provide the Department of
5 Revenue with an annual written certification
6 demonstrating its status as an eligible charitable
7 organization for certain purposes; providing
8 requirements for such certification; requiring the
9 department to review such certification and notify the
10 organization of its determination; authorizing the
11 department to request recertification from such
12 organization; requiring the department to compile and
13 make available to the public a list of eligible
14 charitable organizations; providing the tax credit cap
15 amount for a specified state fiscal year; providing
16 for the increase of the tax credit cap amount under
17 certain circumstances; requiring the department to
18 publish on its website the tax credit cap amount if
19 increased; authorizing a taxpayer to submit an
20 application to the department requesting certain tax
21 credits; providing requirements for the tax credit
22 application; requiring the department to provide a
23 copy of its approval or denial letter of the
24 application to the eligible charitable organization
25 specified in the application within a specified
26 timeframe; authorizing certain tax credits to be
27 carried forward under certain circumstances;
28 prohibiting a taxpayer from conveying, assigning, or
29 transferring certain tax credits under certain

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30 circumstances; requiring a taxpayer to notify the
31 department of its intent to convey, assign, or
32 transfer tax credits under certain circumstances;
33 requiring the department to obtain certain approvals
34 from the Division of Alcoholic Beverages and Tobacco
35 of the Department of Business and Professional
36 Regulation under certain circumstances; authorizing a
37 taxpayer to rescind all or part of an approved tax
38 credit; providing requirements for the rescindment;
39 requiring the department to provide notice to an
40 eligible charitable organization within a specified
41 timeframe under certain circumstances; providing the
42 methodology by which the underpayment of estimated
43 corporate income taxes is calculated; providing the
44 methodology for determining the imposition of a
45 penalty or interest for such underpayment; providing
46 applicability; creating s. 409.1761, F.S.; providing
47 legislative findings; authorizing qualified nonprofit
48 organizations to establish programs to provide
49 temporary respite care for children; defining terms;
50 providing registration and recordkeeping requirements
51 for such organizations and the Department of Children
52 and Families; exempting such organizations from
53 specified licensure requirements; providing background
54 screening requirements for certain persons;
55 authorizing a parent or legal guardian to enter into a
56 contract to provide temporary respite care for a
57 child; specifying the form, content, and execution of
58 the contract; authorizing the department to inspect

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59 documents held by such organizations; prohibiting
60 certain children from placement in volunteer respite
61 homes; authorizing the department to refer a child for
62 temporary respite care under certain circumstances;
63 providing construction; providing an effective date.
64

65 Be It Enacted by the Legislature of the State of Florida:
66

67 Section 1. (1) This section may be cited as the "Children's
68 Promise Act."

69 (2) For purposes of this section, the term:

70 (a) "Annual tax credit amount" means, for any state fiscal
71 year, the sum of the amount of tax credits approved under
72 paragraph (5) (a), including tax credits to be taken under s.
73 220.1875 or s. 624.51055, Florida Statutes, which are approved
74 for a taxpayer whose taxable year begins on or after January 1
75 of the calendar year preceding the start of the applicable state
76 fiscal year.

77 (b) "Department" means the Department of Revenue.

78 (c) "Eligible charitable organization" means an
79 organization that is exempt from federal income taxation under
80 s. 501(c) (3) of the Internal Revenue Code and:

81 1. Has a current contract or agreement with the Department
82 of Children and Families and provides services relating to the:

83 a. Prevention and diversion of children from custody with
84 the Department of Children and Families or a community-based
85 care organization;

86 b. Safety, care, and well-being of children in custody with
87 the Department of Children and Families or a community-based

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88 care organization; or

89 c. Creation of permanency for children through adoption; or

90 2. Is certified by the department as a job training,
91 workforce development, or educational services charitable
92 organization that provides services to:

93 a. Children in a foster care placement program established
94 by the Department of Children and Families or a community-based
95 care organization, or children at significant risk of entering a
96 foster care placement program established by the Department of
97 Children and Families;

98 b. Children who have a chronic illness or physical,
99 intellectual, developmental, or emotional disability; or

100 c. Children eligible for free or reduced-price meals
101 programs under the National School Lunch Act; and

102 3. Has received less than 50 percent of its total annual
103 revenue from the Department of Children and Families, either
104 directly or via a subcontractor of the Department of Children
105 and Families, in the previous state fiscal year and meets all of
106 the following criteria:

107 a. It spent at least 50 percent of its budget during the
108 previous state fiscal year on residents of this state.

109 b. It provides services to at least 100 individuals in this
110 state per year.

111 c. It does not provide, pay for, or provide coverage of
112 abortions or financially support any other entity that provides,
113 pays for, or provides coverage of abortions.

114 (d) "Eligible contribution" means a monetary contribution
115 from a taxpayer, subject to the restrictions provided in this
116 section, to an eligible charitable organization. The term does

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117 not include monetary contributions to an eligible charitable
118 organization that are equal to or less than the annual
119 contribution amount made to that same eligible charitable
120 organization in the 2 state fiscal years before July 1, 2020.

121 (3) An eligible charitable organization shall provide to
122 the department an annual written certification demonstrating
123 that it meets all of the criteria to be considered an eligible
124 charitable organization. The organization shall also notify the
125 department of any changes that may affect eligibility under this
126 subsection.

127 (a) The eligible charitable organization's written
128 certification must be signed by an officer of the organization
129 under penalty of perjury. The written certification must include
130 all of the following:

131 1. Verification of the organization's status under s.
132 501(c)(3) of the Internal Revenue Code.

133 2. A statement that the organization has not received more
134 than 50 percent of its total revenue from the Department of
135 Children and Families, either directly or via a subcontractor,
136 in the previous state fiscal year.

137 3. A statement that the organization spent at least 50
138 percent of its budget on services provided to the residents of
139 this state, and plans to continue providing services during the
140 next state fiscal year.

141 4. A statement that each operating year the organization
142 provides services to at least 100 individuals in this state.

143 5. A statement that the organization does not provide, pay
144 for, or provide coverage of abortions and does not financially
145 support any other entity that provides, pays for, or provides

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146 coverage of abortions.

147 6. Any other information that the department requires to
148 administer this section.

149 (b) The department shall review each organization's written
150 certification, determine whether the organization meets all of
151 the criteria to be considered an eligible charitable
152 organization, and notify the organization of its determination.
153 The department may request recertification from an organization
154 more than once per year if it has reason to believe that the
155 organization no longer meets the eligibility criteria under this
156 section. The department shall compile and make available to the
157 public a list of eligible charitable organizations.

158 (4) For the 2020-2021 state fiscal year, the tax credit cap
159 amount is \$15 million. For the 2020-2021 state fiscal year and
160 each state fiscal year thereafter, the tax credit cap amount is
161 the tax credit cap amount in the prior state fiscal year.
162 However, in any state fiscal year when the annual tax credit
163 amount for the prior state fiscal year is equal to or greater
164 than 90 percent of the tax credit cap amount applicable to that
165 state fiscal year, the tax credit cap amount shall increase by
166 25 percent. The department shall publish on its website
167 information identifying the tax credit cap amount when it is
168 increased pursuant to this subsection.

169 (5) (a) A taxpayer may submit an application to the
170 department for a tax credit or credits under s. 211.0251, s.
171 212.1831, s. 220.1875, s. 561.1211, or s. 624.51055, Florida
172 Statutes.

173 1. The taxpayer shall specify in the application each tax
174 for which the taxpayer requests a credit and the applicable

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175 taxable year for a credit under s. 220.1875 or s. 624.51055,
176 Florida Statutes, or the applicable state fiscal year for a
177 credit under s. 211.0251, s. 212.1831, or s. 561.1211, Florida
178 Statutes. For purposes of s. 220.1875, Florida Statutes, a
179 taxpayer may apply for a credit to be used for a prior taxable
180 year before the date the taxpayer is required to file a return
181 for that year pursuant to s. 220.222, Florida Statutes. For
182 purposes of s. 624.51055, Florida Statutes, a taxpayer may apply
183 for a credit to be used for a prior taxable year before the date
184 the taxpayer is required to file a return for that prior taxable
185 year pursuant to ss. 624.509 and 624.5092, Florida Statutes. The
186 department shall approve tax credits on a first-come, first-
187 served basis and must obtain the approval of the Division of
188 Alcoholic Beverages and Tobacco of the Department of Business
189 and Professional Regulation before approving a tax credit under
190 s. 561.1211, Florida Statutes.

191 2. For any application filed in the first 2 taxable years
192 after July 1, 2020, the taxpayer must state on the application
193 the amount of annual contributions the taxpayer donated during
194 the past 2 taxable years to the eligible charitable organization
195 in the applicable taxable year, and deduct the amount of the
196 higher of the annual contributions from the requested credit.

197 3. Within 10 days after approving or denying an
198 application, the department shall provide a copy of its approval
199 or denial letter to the eligible charitable organization
200 specified by the taxpayer in the application.

201 (b) If a tax credit approved under paragraph (a) is not
202 fully used within the specified state fiscal year for credits
203 under s. 211.0251, s. 212.1831, or s. 561.1211, Florida

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204 Statutes, or against taxes due for the specified taxable year
205 for credits under s. 220.1875 or s. 624.51055, Florida Statutes,
206 because of insufficient tax liability on the part of the
207 taxpayer, the unused amount shall be carried forward for a
208 period not to exceed 10 years. For purposes of s. 220.1875,
209 Florida Statutes, a credit carried forward may be used in a
210 subsequent year after applying the other credits and unused
211 carryovers in the order provided in s. 220.02(8), Florida
212 Statutes.

213 (c) A taxpayer may not convey, assign, or transfer an
214 approved tax credit or a carryforward tax credit to another
215 entity unless all of the assets of the taxpayer are conveyed,
216 assigned, or transferred in the same transaction. However, a tax
217 credit under s. 211.0251, s. 212.1831, s. 220.1875, s. 561.1211,
218 or s. 624.51055, Florida Statutes, may be conveyed, assigned, or
219 transferred between members of an affiliated group of
220 corporations if the type of tax credit under s. 211.0251, s.
221 212.1831, s. 220.1875, s. 561.1211, or s. 624.51055, Florida
222 Statutes, remains the same. A taxpayer shall notify the
223 department of its intent to convey, assign, or transfer a tax
224 credit to another member within an affiliated group of
225 corporations. The amount conveyed, assigned, or transferred is
226 available to another member of the affiliated group of
227 corporations upon approval by the department. The department
228 shall obtain the approval of the Division of Alcoholic Beverages
229 and Tobacco of the Department of Business and Professional
230 Regulation before approving a conveyance, assignment, or
231 transfer of a tax credit under s. 561.1211, Florida Statutes.

232 (d) Within any state fiscal year, a taxpayer may rescind

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233 all or part of a tax credit approved under paragraph (a). The
234 amount rescinded shall become available for that state fiscal
235 year to another eligible taxpayer as approved by the department
236 if the taxpayer receives notice from the department that the
237 rescindment has been accepted by the department. The department
238 must obtain the approval of the Division of Alcoholic Beverages
239 and Tobacco of the Department of Business and Professional
240 Regulation before accepting the rescindment of a tax credit
241 under s. 561.1211, Florida Statutes. Any amount rescinded under
242 this paragraph shall become available to an eligible taxpayer on
243 a first-come, first-served basis based on tax credit
244 applications received after the date the rescindment is accepted
245 by the department.

246 (e) Within 10 days after approving or denying the
247 conveyance, assignment, or transfer of a tax credit under
248 paragraph (c), or the rescindment of a tax credit under
249 paragraph (d), the department shall provide a copy of its
250 approval or denial letter to the eligible charitable
251 organization specified by the taxpayer. The department shall
252 also include the eligible charitable organization specified by
253 the taxpayer on all letters or correspondence of acknowledgment
254 for tax credits under s. 212.1831, Florida Statutes.

255 (f) For purposes of calculating the underpayment of
256 estimated corporate income taxes pursuant to s. 220.34, Florida
257 Statutes, and tax installment payments for taxes on insurance
258 premiums or assessments under s. 624.5092, Florida Statutes, the
259 final amount due is the amount after credits earned under s.
260 220.1875 or s. 624.51055, Florida Statutes, for contributions to
261 eligible charitable organizations are deducted.

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262 1. For purposes of determining if a penalty or interest
263 shall be imposed for underpayment of estimated corporate income
264 tax pursuant to s. 220.34(2)(d)1., Florida Statutes, a taxpayer
265 may, after earning a credit under s. 220.1875, Florida Statutes,
266 reduce any estimated payment in that taxable year by the amount
267 of the credit. This subparagraph applies to contributions made
268 on or after July 1, 2020.

269 2. For purposes of determining if a penalty under s.
270 624.5092, Florida Statutes, shall be imposed, an insurer, after
271 earning a credit under s. 624.51055, Florida Statutes, for a
272 taxable year, may reduce any installment payment for such
273 taxable year of 27 percent of the amount of the net tax due as
274 reported on the return for the preceding year under s.
275 624.5092(2)(b), Florida Statutes, by the amount of the credit.
276 This subparagraph applies to contributions made on or after July
277 1, 2020.

278 Section 2. Section 409.1761, Florida Statutes, is created
279 to read:

280 409.1761 Organizations providing respite care for children
281 not in the child welfare system.-

282 (1) LEGISLATIVE FINDINGS.-The Legislature finds that in
283 circumstances in which the parent or legal guardian of a minor
284 child is temporarily unable to provide care for the child but
285 does not need the full support of the child welfare system, a
286 less intrusive alternative to supervision by the department or
287 involvement by the judiciary should be available. A qualified
288 nonprofit organization may establish a program that assists
289 parents and legal guardians in providing temporary respite care
290 for a child by a volunteer respite family.

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- 291 (2) DEFINITIONS.—As used in this section, the term:
292 (a) "Qualified nonprofit organization" or "organization"
293 means a private Florida nonprofit organization that assists
294 parents and legal guardians in the provision of temporary
295 respite care for a child by a volunteer respite family under a
296 contract for care. The organization shall provide assistance and
297 support to parents and legal guardians and training and support
298 for volunteer respite families.
- 299 (b) "Volunteer respite family" means an individual or a
300 family who voluntarily agrees to provide, without compensation,
301 temporary respite care for a child, with the assistance of a
302 qualified nonprofit organization, pursuant to a contract for
303 care with the child's parent or legal guardian.
- 304 (c) "Volunteer respite home" means the home of a volunteer
305 respite family.
- 306 (3) REGISTRATION.—
307 (a) An organization must register annually with the
308 department by filing with the department:
- 309 1. The name, address, telephone number, e-mail address, and
310 other contact information of the organization.
 - 311 2. The name of the organization's director.
 - 312 3. The names and addresses of the officers and members of
313 the board of directors or other governing body of the
314 organization.
 - 315 4. A description of the methods used by the organization to
316 recruit, train, and support volunteer respite families in
317 providing temporary respite care for children and the standards
318 used for evaluating whether a volunteer respite home is safe for
319 children.

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320 5. If the organization provides volunteer respite family
321 services in affiliation with another entity, including the use
322 of another entity's volunteer respite family program model, the
323 organization must provide the entity's name, address, telephone
324 number, e-mail address, and other contact information; a
325 description of the program model; and documentation that the
326 organization is in compliance with the minimum standards of the
327 program model.

328 6. An attestation, with any supporting documentation, that
329 the employees and volunteers of the organization are in
330 compliance with the personnel screening requirements in
331 subsection (5).

332 7. An attestation, with any supporting documentation, that
333 the volunteer respite families are in compliance with the
334 personnel screening requirements in subsection (5), and that the
335 organization has inspected the volunteer respite homes and
336 considers the homes safe for the placement of children.

337 8. The total number of volunteer respite families working
338 with the organization, the total number of children the
339 organization is able to serve, and the total number of children
340 the organization currently serves.

341 (b) The department shall develop a system of registration,
342 maintain a registration record on each organization, and issue a
343 registration number to each organization that meets the
344 registration requirements in this subsection.

345 (c) An organization shall maintain information about each
346 volunteer respite family and child served which includes at a
347 minimum:

348 1. The name and age of the child.

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349 2. The name, address, telephone numbers, e-mail address,
350 and other contact information of the child's parent or legal
351 guardian.

352 3. The name, address, telephone numbers, e-mail address,
353 and other contact information of the child's volunteer respite
354 family.

355 4. A copy of the contract for care executed pursuant to
356 subsection (6).

357 5. Proof of the volunteer respite family's compliance with
358 the personnel screening requirements in subsection (5).

359 (d) The department may access and inspect the
360 organization's records maintained pursuant to this subsection at
361 any time to ensure compliance with this section and any
362 standards established by any entity with which the organization
363 is affiliated pursuant to subparagraph (a)5.

364 (4) EXEMPTION FROM LICENSURE.—The licensing provisions in
365 s. 409.175 do not apply to a volunteer respite home or an
366 organization registered under this section unless the
367 organization attempts to place or arrange for the placement of a
368 child as provided in s. 409.175. However, such home or
369 organization must meet the personnel screening requirements in
370 subsection (5).

371 (a) An organization registered under this section shall
372 make every effort to not accept or place a child with a
373 volunteer respite family that is not qualified or able to
374 adequately care for the child for reasons including, but not
375 limited to, the child's disabilities, health conditions, or
376 behavioral challenges. If the organization chooses to not accept
377 or place a child with a volunteer respite family due to the

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378 inability of any volunteer respite family to meet the child's
379 needs, the organization shall assist the parent or legal
380 guardian in finding community-based assistance that will meet
381 the child's needs.

382 (b) Chapters 39 and 827, relating to the reporting of child
383 abuse, abandonment, and neglect, apply to an organization
384 registered under this section.

385 (5) SCREENING REQUIREMENTS FOR PERSONNEL.—The department
386 shall attest to the good moral character of the personnel of an
387 organization and members of a volunteer respite home by
388 conducting a background screening in compliance with the
389 screening requirements in s. 409.175 and chapter 435. Persons
390 required to be screened under this section include:

391 (a) Employees of the organization who have direct contact
392 with children while assisting parents or legal guardians in
393 providing temporary respite care.

394 (b) Members of the volunteer respite family or persons
395 residing in the volunteer respite home who are older than 12
396 years of age. However, members of a volunteer respite family or
397 persons residing in the volunteer respite home who are between
398 the ages of 12 years and 18 years are not required to be
399 fingerprinted but must be screened for delinquency records.

400 (c) A volunteer who assists on an intermittent basis for
401 fewer than 10 hours per month is not required to be screened if
402 he or she is always accompanied by and in the line of sight of a
403 person who meets the screening requirements in this subsection.

404 (6) CONTRACT FOR CARE.—Before a volunteer respite family
405 begins to care for a child, the child's parent or legal guardian
406 must enter into a written contract for care with the volunteer

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407 respite family. Under a contract for care, the parent or legal
408 guardian may delegate to the volunteer respite family any of the
409 powers regarding the care and custody of the child, except the
410 power to consent to the marriage or adoption of the child, the
411 performance of or inducement of an abortion on or for the child,
412 or the termination of parental rights to the child.

413 (a) The contract for care must at a minimum:

414 1. Be signed by both parents, if both parents are living
415 and have shared responsibility and timesharing of the child
416 pursuant to law or a court order, or the child's legal guardian.
417 If the parents do not have shared responsibility and timesharing
418 of the child, the parent having sole custody of the child has
419 the authority to enter into the contract for care but shall
420 notify the noncustodial parent in writing of the name and
421 address of the volunteer respite family. Such notification must
422 be provided by certified mail, return receipt requested, to the
423 noncustodial parent at his or her last known address within 5
424 days after the contract for care is signed. Notification to a
425 noncustodial parent whose parental rights have been terminated
426 is not required.

427 2. Be signed by all members of the volunteer respite family
428 who are 18 years of age or older.

429 3. Be signed by a representative of the organization who
430 assisted with the child's placement with the volunteer respite
431 family.

432 4. Be signed by two subscribing witnesses.

433 5. Be acknowledged by the parent or parents, as applicable
434 under subparagraph 1., or the child's legal guardian and the
435 representative of the qualified nonprofit organization before a

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436 notary public.

437 (b) The following information must be in the contract for
438 care:

439 1. A statement that the contract does not deprive the
440 child's parent or legal guardian of any parental or legal
441 authority regarding the care and custody of the child or
442 supersede any court order regarding the care and custody of the
443 child.

444 2. A statement that the contract may be revoked or
445 withdrawn at any time by the parent or legal guardian and that
446 custody of the child shall be returned to the parent or legal
447 guardian as soon as reasonably possible.

448 3. An enumeration of basic services and accommodations
449 provided by the volunteer respite family and organization.

450 4. Identification of the child, the parent or legal
451 guardian, and members of the volunteer respite family, including
452 contact information for all parties.

453 5. Identification of the organization, including contact
454 information for the organization and the organization's primary
455 contact person.

456 6. A statement regarding disciplinary procedures that are
457 used by the volunteer respite family and expectations regarding
458 interactions between the volunteer respite family and the child,
459 including any known behavioral or emotional issues and how such
460 issues are currently addressed by the child's parent or legal
461 guardian.

462 7. A statement of the minimum expected frequency of contact
463 between the parent or legal guardian and the child, expectations
464 for the volunteer respite family to facilitate any reasonable

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465 request for contact with the child outside of the established
466 schedule, and the minimum expected frequency of contact between
467 the parent or legal guardian and the volunteer respite family to
468 discuss the child's well-being and health.

469 8. A statement regarding the child's educational needs,
470 including, at a minimum, the name and address of the child's
471 school and the names of the child's teachers.

472 9. A list of extracurricular, religious, or community
473 activities and programs in which the child participates.

474 10. A list of any special dietary or nutritional
475 requirements of the child.

476 11. A description of the child's medical needs, including
477 any diagnoses, allergies, therapies, treatments, or medications
478 prescribed to the child and the expectations for the volunteer
479 respite family to address such medical needs.

480 12. A statement that the volunteer respite family agrees to
481 act in the best interests of the child and to consider all
482 reasonable wishes and expectations of the parent or legal
483 guardian concerning the care and comfort of the child.

484 13. A statement that all appropriate members of the
485 volunteer respite family have successfully completed the
486 background screening requirements in subsection (5).

487 14. The expiration date of the contract for care, which may
488 not be more than 6 months after the date of execution.

489 15. A statement that the goal of the organization,
490 volunteer respite family, and parent or legal guardian is to
491 return the child receiving temporary respite care to the parent
492 or legal guardian as soon as the situation requiring such care
493 has been resolved.

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494 16. A requirement that the volunteer respite family
495 immediately notify the parent or legal guardian of the child's
496 need for medical care. Authorization for the volunteer respite
497 family to consent to routine and emergency medical care on
498 behalf of the parent or legal guardian shall be granted only
499 upon the separate consent of the parent or legal guardian
500 pursuant to s. 743.0645.

501 (7) INSPECTION OF DOCUMENTS.—The department may, at any
502 time, inspect any documents held by the organization relating to
503 children placed in volunteer respite homes pursuant to this
504 section.

505 (8) ELIGIBILITY.—A child who has been removed from his or
506 her parent or legal guardian due to abuse or neglect and placed
507 in the custody of the department is not eligible to be placed in
508 a volunteer respite home pursuant to this section.

509 (9) DUTIES OF DEPARTMENT.—The department may refer a child
510 to an organization under this section if the department
511 determines that the needs of the child or the needs of the
512 child's family do not rise to the level of requiring an out-of-
513 home safety plan or other formal involvement of the department
514 and that the child and the child's family may benefit from the
515 temporary respite care and services provided by the
516 organization.

517 (10) APPLICABILITY.—Placement of a child in a volunteer
518 respite home under this section without any additional evidence
519 does not constitute abandonment, abuse, or neglect, as those
520 terms are defined in s. 39.01, and is not considered to be
521 placement of the child in foster care. However, nothing in this
522 section prevents the department or a law enforcement agency from

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523 investigating allegations of abandonment, abuse, neglect,
524 unlawful desertion of a child, or human trafficking.

525 Section 3. This act shall take effect July 1, 2020.