

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: SB 610

INTRODUCER: Senator Yarborough

SUBJECT: Registration of Residential Child-caring Agencies and Family Foster Homes

DATE: March 27, 2023

REVISED: 3/28/23

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Tuszynski</u>	<u>Cox</u>	<u>CF</u>	Favorable
2.	<u></u>	<u></u>	<u>JU</u>	<u></u>
3.	<u></u>	<u></u>	<u>RC</u>	<u></u>

I. Summary:

SB 610 removes a limitation that an organization or entity must have been in existence on January 1, 1984 to be considered a qualified association that can register certain faith-based child-caring facilities and foster homes which accepts a child who is voluntarily placed by his or her family outside of Florida’s child welfare system.

This allows organizations and entities that began operating after January 1, 1984 to become a qualified association.

Any new organization or entity seeking to become a qualified association under this expansion will need to comply with all other statutory requirements to become and maintain status as a qualified association.

The bill will likely not have a fiscal impact on the private sector or government. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2023.

II. Present Situation:

DCF Licensure and Registration of Residential Child-Caring Agencies and Family Foster Homes

A “residential child-caring agency” is defined as a residential facility or agency that provides staffed 24-hour care for children, to include, but are not limited to, maternity homes, runaway shelters, group homes that are administered by an agency, emergency shelters that are not in

private residences, and wilderness camps.¹ A “family foster home” is defined as a residence in which children who are unattended by a parent or legal guardian are provided 24-hour care, not to include adoptive homes.² Residential child-caring agencies and family foster homes, referred to as “facilities,” must be licensed by the Department of Children and Families (DCF) under s. 409.175, F.S., or otherwise registered under s. 409.176, F.S.³

Licensure by the Department of Children and Families

Licensure of a facility under s. 409.175, F.S., requires meeting minimum standards related to:

- Operation, conduct, and maintenance;
- Provision of food, clothing, education, services, equipment, and supplies to ensure healthy physical, emotional, and mental development of children;
- Safety, cleanliness, and adequacy of the premises;
- Staff to child ratio for adequate care and supervision;
- Maximum number of children; and
- Good moral character of personnel.⁴

The DCF must issue a license for a facility that meets minimum licensure standards.⁵ The issuance of a license does not require a community-based care lead agency⁶ under contract with the DCF to place a child with in any agency or home.⁷

The following placements are exempt from licensure:

- Relative caregivers;⁸
- Non-relative caregivers;⁹
- An adoptive home which has been approved for children placed for adoption;¹⁰
- Persons who care for children in their homes for less than 90 days, such as summer camps, or persons who care for children of friends and neighbors;¹¹ and
- A religious organization that does not directly receive state or federal funds or a family foster home associated with such an organization and does not directly receive state or federal funds.¹²

¹ Section 409.175(2)(l), F.S.

² Section 409.175(2)(e), F.S.

³ Facilities licensed under s. 409.175, F.S., are classified as “Type I” facilities and those registered under s. 409.176, F.S., are classified as “Type II” facilities. *See* ss. 409.175 and 409.176, F.S.

⁴ Section 409.175(5)(b), F.S.

⁵ Section 409.175(6)(h), F.S.

⁶ Child welfare services are directed toward the prevention of abandonment, abuse, and neglect of children. Such services are coordinated by the DCF-contracted community-based care lead agencies. *See generally* The DCF, Community Based Care, available at <https://www.myflfamilies.com/services/child-family/child-and-family-well-being/community-based-care> (last viewed March 22, 2023).

⁷ Section 409.175(6)(i), F.S.

⁸ Section 409.175(4)(a), F.S.; this includes a relative of the child by blood, marriage, or adoption, and a permanent guardian established under law.

⁹ *Id.*

¹⁰ Section 409.175(1)(e), F.S.

¹¹ Section 409.175(4)(d), F.S.

¹² Section 409.176(5)(a), F.S.

Registration of Exempt Religious Facilities by a Qualified Association

While certain facilities are exempt from licensure, those facilities must still be registered with a “qualified association” before they may receive a child for full-time care or custody.¹³

The licensing provisions of s. 409.175, F.S., do not apply to a facility operated by an organization that:

- Is a religious organization or family foster home associated with such an organization that does not directly receive state or federal funds;
- Is a qualified association; or
- Has been issued a certificate of registration by a qualified association.¹⁴

A qualified association that may register these license-exempt facilities must:

- Be an association certified by a Florida statewide child care organization that was in existence on January 1, 1984.¹⁵
- Publish its standards, file those standards with the DCF, and ensure compliance with those standards by registered facilities.

The published standards of the qualified association must substantially comply with the minimal published regulations of the DCF that similar licensed child-caring agencies or family foster homes are required to meet, with exceptions for standards of a curricular or religious nature and those relating to staffing or financial stability.¹⁶ The DCF is required to determine whether the registration standards are in substantial compliance, and once determined, the qualified association does not have to resubmit its standards unless there are changes.¹⁷ Any changes must be provided to the DCF within 10 days of their adoption.¹⁸

A qualified association is required to notify the DCF within 24 hours upon finding a violation that threatens harm to a child or constitutes an emergency requiring immediate action.¹⁹ The DCF must also be notified within three calendar days of a determination that a facility is operating without a certificate of registration or license.²⁰ The DCF must notify the state attorney when there is a violation of law reported and, if needed, file civil suit to stop the facility from continuing care.²¹ The DCF also still has the overall authority to investigate concerns of abuse, abandonment, or neglect²² and also to institute injunctive proceedings in court to enforce statutory requirements or terminate facility operations.²³

A qualified association is required to annually report to the DCF:

¹³ Section 409.176(1), F.S.

¹⁴ Section 409.176(5), F.S.

¹⁵ Sections 409.176(1)(a) and 409.176(5)(b), F.S.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Section 409.176(10)(a), F.S.

²⁰ Section 409.176(10)(b), F.S.

²¹ *Id.*

²² *See generally* ch. 39, F.S.

²³ Section 409.176(10)(c), F.S.

- The number of registered facilities during the most recent calendar year, the names and addresses of each facility, and the name of each facility's administrator.
- The total number of children served by each facility during the calendar year.²⁴

Under current law, the Florida Association of Christian Child Caring Agencies (FACCCA) is the only organization that meets the requirements to be a qualified association and is the only qualified association responsible for the required standards, registration, and oversight of licensure-exempt faith-based facilities.²⁵

Florida Association of Christian Child Caring Agencies

The FACCCA is a not-for-profit Florida corporation based in Tampa that has been active since 1982.²⁶ The FACCCA registers four types of child caring homes: residential care homes, maternity homes, adoption & substitution family homes, and restoration homes. Currently, FACCCA has registered 23 facilities statewide.²⁷ These homes are as follows:

- Residential Care Homes: provide 24-hour care in family-structured residential homes. The FACCCA registers eight residential care homes.²⁸
- Maternity Homes: provide care for pregnant girls of various age in need during and after her pregnancy. The FACCCA registers five maternity homes.²⁹
- Adoption & Substitute Family Homes: provide adoption services and temporary loving homes for a child, similar to a foster home, until a permanent placement can be found. The FACCCA registers three agencies that provide adoption and substitute family homes.³⁰
- Restoration Homes: provide homes for troubled children and teens in need of specialized help. The FACCCA registers eight restoration homes.³¹

It should be highlighted that these foster homes and residential child-caring agencies registered with a qualified association are not allowed to care for children who are placed in out-of-home care pursuant to ch. 39, F.S., proceedings, also referred to as the state's child welfare system. One of the requirements of these registered homes and qualified associations is that they are not permitted to directly receive state or federal funds.³² These are privately funded facilities in which families voluntarily place their children.

²⁴ Section 409.176(15), F.S.

²⁵ Rule 65D-46.001, F.A.C

²⁶ Florida Division of Corporations Search Records indicates that the FACCCA has been an active organization since February 22, 1982, available at

<https://search.sunbiz.org/Inquiry/CorporationSearch/ConvertTiffToPDF?storagePath=COR%5C2012%5C0224%5C22932575.Tif&documentNumber=762042> (last visited March 22, 2023).

²⁷ The Department of Children and Families, 2023 Agency Legislative Bill Analysis, SB 610, bill p. 2, February 17, 2023 (on file with Committee on Children, Families, and Elder Affairs Staff).

²⁸ The Florida Association of Christian Child Caring Agencies (FACCCA website), *Residential Care*, available at <https://www.faccca.com/residential-care> (last visited March 19, 2023).

²⁹ FACCCA website, *Maternity Homes*, available at <https://www.faccca.com/maternity-homes> (last visited March 19, 2023).

³⁰ FACCCA website, *Adoption & Substitute Family Homes*, available at <https://www.faccca.com/adoption-homes> (last visited March 19, 2023).

³¹ FACCCA website, *Restoration Homes*, available at <https://www.faccca.com/restoration-homes> (last visited March 19, 2023).

³² Section 409.176(5)(a), F.S.

III. Effect of Proposed Changes:

The bill removes a limitation that an organization or entity must have been in existence on January 1, 1984 to be considered a qualified association that can register certain faith-based child-caring facilities and foster homes. This allows organizations and entities that began operating after January 1, 1984 to be a qualified association.

The Florida Association of Christian Child Caring Agencies (FACCCA) is the only association that currently meets the statutory requirements of a qualified association and will remain eligible as long as it continues to meet the other statutory requirements. Any new organization or entity seeking to become a qualified association will need to comply with all other statutory requirements to become and maintain status as a qualified association.

The bill also requires that any change to a qualified association's standards must be provided to DCF "within 10 days *after their* adoption." Current language requires changes to standards to be provided to the DCF "within 10 days *of* adoption."

The bill provides for an effective date of July 1, 2023.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DCF states that the bill will not have an impact on state government.³³

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 409.176 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

³³ Agency analysis p. 4