

**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.)

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

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BILL: SB 976

INTRODUCER: Senator Harrell

SUBJECT: Certification of Individuals Who Provide Child and Adult Protective Services

DATE: April 3, 2023

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Tuszynski	Cox	CF	<b>Pre-meeting</b>
2.			AHS	
3.			FP	

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**I. Summary:**

SB 976 amends s. 402.40, to create an explicit right to a ch. 120, F.S., administrative hearing for a Child Welfare Professional in relation to the denial, revocation, or suspension of a child welfare certification by the Florida Certification Board (FCB). The bill details timelines and requirements to request the administrative hearing.

The bill provides that the Department of Children and Families (DCF) may review any decision by a third-party credentialing entity to deny, revoke, or suspend a child welfare certification, or otherwise impose sanctions on an individual who is certified.

The bill also amends s. 415.101, F.S., to require the DCF to approve a third-party credentialing entity to certify Adult Protective Services (APS) program staff. This change will result in the required credentialing of current and future APS staff and the DCF would be required to identify and contract with a third-party credentialing entity to develop and administer a certification program.

The bill will likely have a significant negative fiscal impact on state government. See Section V. Fiscal Impact Statement.

The bill takes effect upon becoming law.

**II. Present Situation:**

**Third-Party Credentialing Entities**

In 2011, the Legislature required the Department of Children and Families (DCF) to authorize third-party entities to develop and provide a process for child welfare professionals to become

certified.<sup>1</sup> The law required the DCF to approve one or more “third-party credentialing entities” for the purpose of developing and administering child welfare certification programs.<sup>2</sup> A third-party credentialing entity must be a nonprofit organization that has met nationally recognized standards for developing and administering professional certification programs.<sup>3</sup> To be approved by the DCF, a third-party credentialing entity must:

- Establish professional requirements and standards that applicants must achieve;
- Develop and apply core competencies and examination instruments according to nationally recognized certification and psychometric standards;
- Maintain a professional code of ethics and a disciplinary process that apply to all persons holding child welfare certification;
- Maintain a database, accessible to the public, of all persons holding child welfare certification, including any history of ethical violations;
- Require annual continuing education for persons holding child welfare certification;
- Administer a continuing education provider program;
- Review the findings and all relevant records involving the death of a child or other critical incident following completion of any reviews by the department, the inspector general, or the Office of the Attorney General; and
- Maintain an advisory committee, including representatives from each region of the department, each sheriff’s office providing child protective services, and each community-based care lead agency, who shall be appointed by the organization they represent.<sup>4</sup>

### *Child Welfare Certifications*

Child protective investigators, case managers, and licensing specialists are all child welfare professionals currently required to obtain a valid child welfare credential.<sup>5</sup> An approved third-party credentialing entity is responsible for the internal monitoring of all training, certification activities, and the certification status of every Child Welfare Professional employed by the DCF, sheriffs’ office, and community-based care lead agency.<sup>6</sup> Child welfare certifications are valid for a two-year period.<sup>7</sup>

The DCF contracts with the Florida Certification Board (FCB) to provide the third-party credentialing service for Child Welfare Professionals.<sup>8</sup> The current number of valid credentials is approximately 3,280 for child protective investigators (CPI), 4,880 for case managers, and 615 for licensing specialists, a total of 8,775.<sup>9</sup>

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<sup>1</sup> Chapter 2011-163, L.O.F.; codified as s. 402.40, F.S.

<sup>2</sup> *Id.*

<sup>3</sup> Section 402.40(2)(g), F.S.

<sup>4</sup> Section 402.40(3), F.S.

<sup>5</sup> Rule 65C-33.002, F.A.C.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> The Department of Children and Families, 2023 Agency Bill Analysis, *SB 976*, p. 2, February 28, 2023 (on file with Committee for Children, Families, and Elder Affairs). (hereinafter cited as “DCF Bill Analysis”)

<sup>9</sup> *Id.*

### ***The Florida Certification Board***

Currently, the DCF has only approved the FCB as a third-party credentialing entity for child welfare certifications. However, the FCB is larger than just child welfare certifications; it designs, develops and manages programs for over 30 health and human services professions and certifies more than 20,000 professionals statewide, including those in the child welfare, mental health, addiction and health fields, by ensuring that they meet education, training, experience and testing criteria.<sup>10</sup>

Current law is silent as to any ch. 120, F.S., administrative hearing rights in relation to the denial, revocation, or suspension of a child welfare certification.

### ***Chapter 120 Administrative Hearings***

In 1974, the Legislature created ch. 120, F.S., establishing the Administrative Procedures Act (APA),<sup>11</sup> to outline a comprehensive administrative process by which agencies exercise authority granted to them by the Legislature.<sup>12</sup> The APA details processes and procedures related to topics such as:

- Meetings, hearings, and workshops.<sup>13</sup>
- Rulemaking.<sup>14</sup>
- Declaratory statements.<sup>15</sup>
- Mediation of disputes.<sup>16</sup>
- Investigations.<sup>17</sup>
- Licensing.<sup>18</sup>
- Agency final orders.<sup>19</sup>

The APA serves to protect the citizens of Florida from unauthorized rules that could otherwise be in effect by providing state agencies a uniform procedure for enacting rules, issuing orders, and allowing citizens to challenge an agency's action or decision.<sup>20</sup> Agency action is broadly and flexibly defined term defined to include a rule or its equivalent, an order or its equivalent, and the denial of a petition to adopt a rule or to issue an order.<sup>21</sup>

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<sup>10</sup> The Florida Certification Board, *About Us*, available at <https://flcertificationboard.org/about/> (last viewed March 28, 2023).

<sup>11</sup> Chapter 1974-310 s. 1, L.O.F.; codified as Chapter 120, F.S.

<sup>12</sup> Florida Administrative Law Central Online Network, Publications, *A Pocket Guide to Florida's Administrative Procedure Act*, p2022, available at <https://www.japc.state.fl.us/Documents/Publications/PocketGuideFloridaAPA.pdf> (last viewed March 31, 2023) (hereinafter cited as "APA Pocket Guide")

<sup>13</sup> Section 120.525, F.S.

<sup>14</sup> Section 120.54, F.S.

<sup>15</sup> Section 120.565, F.S.

<sup>16</sup> Section 120.573, F.S.

<sup>17</sup> Section 120.62, F.S.

<sup>18</sup> Section 120.60, F.S.

<sup>19</sup> Sections 120.53 and 120.533, F.S.

<sup>20</sup> APA Pocket Guide, p. 1

<sup>21</sup> *Id.*

## Adult Protective Services

Chapter 415, F.S, authorizes comprehensive protective services for Florida’s elderly and abused adults.<sup>22</sup> The DCF Adult Protective Services (APS) program is required to investigate allegations of abuse,<sup>23</sup> neglect,<sup>24</sup> and exploitation<sup>25</sup> of vulnerable adults<sup>26</sup> and vulnerable adults in need of services.<sup>27</sup>

Upon report of alleged abuse, neglect, or exploitation, the central abuse hotline (hotline) makes an assessment of an individual’s need for protective services.<sup>28</sup> The hotline must determine if the report requires an immediate, 24-hour, or next-working-day response priority.<sup>29</sup> For reports requiring an immediate onsite protective investigation, the hotline must immediately notify the department's designated protective investigative staff responsible for protective investigations to ensure prompt initiation of an onsite investigation.<sup>30</sup> This investigation initiates an assessment of individual need for protective services.<sup>31</sup> Services provided by APS include the following:

- On-site investigation of reports of alleged abuse, neglect, exploitation or self-neglect;
- Determination of immediate risk to the victim and provision of necessary emergency services;
- Evaluation of the need for and provision of protective supervision; and
- Provision of on-going protective services.<sup>32</sup>

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<sup>22</sup> Section 415.101, F.S.

<sup>23</sup> Section 415.102(1), F.S., defines “abuse” to mean any willful act or threatened act by a relative, caregiver, or household member which causes or is likely to cause significant impairment to a vulnerable adult's physical, mental, or emotional health. Abuse includes acts and omissions.

<sup>24</sup> Section 415.102(16), F.S., defines “neglect” to mean the failure or omission on the part of the caregiver or vulnerable adult to provide the care, supervision, and services necessary to maintain the physical and mental health of the vulnerable adult, including, but not limited to, food, clothing, medicine, shelter, supervision, and medical services, which a prudent person would consider essential for the well-being of a vulnerable adult. The term “neglect” also means the failure of a caregiver or vulnerable adult to make a reasonable effort to protect a vulnerable adult from abuse, neglect, or exploitation by others. “Neglect” is repeated conduct or a single incident of carelessness which produces or could reasonably be expected to result in serious physical or psychological injury or a substantial risk of death.

<sup>25</sup> Section 415.102(8), F.S., defines “exploitation” to mean (1) a person who stands in a position of trust and confidence with a vulnerable adult and knowingly, by deception or intimidation, obtains or uses, or endeavors to obtain or use, a vulnerable adult's funds, assets, or property with the intent to temporarily or permanently deprive a vulnerable adult of the use, benefit, or possession of the funds, assets, or property for the benefit of someone other than the vulnerable adult; or (2) knows or should know that the vulnerable adult lacks the capacity to consent, and obtains or uses, or endeavors to obtain or use, the vulnerable adult's funds, assets, or property with the intent to temporarily or permanently deprive the vulnerable adult of the use, benefit, or possession of the funds, assets, or property for the benefit of someone other than the vulnerable adult.

<sup>26</sup> Section 415.102(28), F.S., defines “vulnerable adult” to mean a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging.

<sup>27</sup> Section 415.102(29), F.S., defines “vulnerable adult in need of services” to mean a vulnerable adult who has been determined by a protective investigator to be suffering from the ill effects of neglect not caused by a second party perpetrator and is in need of protective services or other services to prevent further harm.

<sup>28</sup> See generally s. 415.103, F.S.

<sup>29</sup> Section 415.103(1)(b), F.S.

<sup>30</sup> Section 415.103(2), F.S.

<sup>31</sup> The Department of Children and Families, *About Adult Protective Services*, available at <https://www.myflfamilies.com/services/abuse/adult-protective-services/about-adult-protective-services> (last viewed March 28, 2023) (hereinafter cited as “DCF APS Webpage”)

<sup>32</sup> *Id.*

Pursuant to the Florida Community Care for Disabled Adults Act,<sup>33</sup> the APS program also assists vulnerable disabled adults to live dignified and reasonably independent lives in their own homes or in the homes of relatives or friends so that they may be assured the least restrictive environment suitable to their needs.<sup>34</sup>

Subject matter experts within the APS program, in collaboration with partner state agencies and the National Adult Protective Services Association, developed all current APS staff training programs.<sup>35</sup> Each position has performance expectations and failure to meet performances standards will result in disciplinary actions that can result in or escalate to termination based on severity and response.<sup>36</sup>

Currently, the DCF reports 520 current APS program staff members who provide adult protective services and there is no requirement for APS program staff to obtain certification through a third-party credentialing entity.<sup>37</sup>

### **III. Effect of Proposed Changes:**

The bill amends s. 402.40, F.S., to create an explicit right to a ch. 120, F.S., administrative hearing for a Child Welfare Professional in relation to the denial, revocation, or suspension of a child welfare certification by the FCB. The Child Welfare Professional may request an administrative hearing to review an adverse determination within 30 days after completing any appeals process provided by the third-party credentialing entity or the DCF. This change has the potential to increase the instances of administrative hearings the DCF must attend in relation to actions taken by the FCB against a child welfare professional's credential.

The bill provides that the DCF may review any decision by a third-party credentialing entity to deny, revoke, or suspend a child welfare certification or otherwise impose sanctions on an individual who is certified.

The bill also amends s. 415.101, F.S., to require the DCF to approve a third-party credentialing entity to certify APS program staff. This change will require the DCF to identify and contract with a third-party credentialing entity to develop and administer a certification program for current and future APS program staff.

The bill takes effect upon becoming law.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

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<sup>33</sup> See ss. 410.602 through 410.606, F.S.

<sup>34</sup> DCF APS Webpage

<sup>35</sup> DCF Bill Analysis, p. 2.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

## 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:

**Administrative Hearings**<sup>38</sup>

The bill language would require the DCF to participate in ch. 120, F.S., proceedings when a Child Welfare Professional requests an administrative hearing.

The DCF estimates approximately 5% of child welfare professionals being certified or re-certified may request an administrative hearing due to suspension, revocation, or denial of certification at an estimated cost of \$5,000 per hearing, detailed in the calculation below.

Each hearing takes legal counsel approximately 25-30 hours. The cost calculation is below:

- The cost per hearing estimate includes approximately \$2,500 for the Division of Administrative Hearings (DOAH) and \$2,500 (attorney staff time, court reporter, etc.) for the Department's costs.
- $8,775$  (total employees)  $\times$   $.05$  = Approximately 440 employees
- $440$  (hearings)  $\times$   $5,000$  (estimated hearing cost) = **\$2,200,000 per year.**

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<sup>38</sup> DCF Bill Analysis, p. 4.

**Credential Costs**<sup>39</sup>

The DCF bases the following expenditures on the current fee structure for the Child Welfare certification program as administered by the FCB:

- Provisional Application fee: \$107.50
- Test fee: \$107.50
- Upgrade Application fee: \$107.50
- Certification fee: \$107.50
- Biennial Renewal fee: \$215

Total APS cost at 520 employees (if fully staffed):

- Provisional Application fee:  $\$107.50 \times 520 = \$55,900$
- Test fee:  $\$107.50 \times 520 = \$55,900$
- Upgrade Application fee:  $\$107.50 \times 520 = \$55,900$
- Certification fee:  $\$107.50 \times 520 = \$55,900$
- **Year 1 cost for credentialing: \$223,600**
- Ongoing Costs:
  - New employees based on 40% turnover:  $\$223,600 \times .40 = \$89,440$
  - Stable workforce renewal based on 60%:  $.60 \times 520 = 312$  positions
  - $312 \times \$215$  (biennial renewal) = \$67,080
  - **Total on-going cost: \$156,520**

The DCF projects a total cost for implementation to be **\$2,580,120**.<sup>40</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 402.40 and 415.101 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.

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<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

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

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