

By Senator Polsky

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1 A bill to be entitled
2 An act relating to child care facility and program
3 background screening requirements; amending s.
4 409.175, F.S.; revising the definition of the term
5 "personnel" to include recreational enrichment program
6 personnel for screening purposes; revising the
7 definition of the term "residential child-caring
8 agency" to exclude recreational enrichment programs;
9 defining the term "recreational enrichment program";
10 exempting such programs from certain licensing
11 requirements of the Department of Children and
12 Families; authorizing rulemaking; authorizing the
13 department to pursue certain remedies for the failure
14 of a recreational enrichment program to comply with
15 certain screening requirements; prohibiting
16 recreational enrichment programs from using or
17 releasing information from certain criminal or
18 juvenile records for purposes other than employment
19 screening; providing criminal penalties; creating s.
20 409.1751, F.S.; requiring the department, in
21 conjunction with the Agency for Health Care
22 Administration and the Department of Law Enforcement,
23 to develop and maintain a statewide background
24 screening public awareness campaign; amending s.
25 409.1676, F.S.; conforming a cross-reference; making a
26 technical change; providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:
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30 Section 1. Present paragraphs (l) through (p) of subsection
31 (2) of section 409.175, Florida Statutes, are redesignated as
32 paragraphs (m) through (q), respectively, a new paragraph (l) is
33 added to that subsection, and paragraph (j) and present
34 paragraph (l) of subsection (2), paragraph (d) of subsection
35 (4), paragraphs (e) and (l) of subsection (6), and subsections
36 (10) and (12) of that section are amended, to read:

37 409.175 Licensure of family foster homes, residential
38 child-caring agencies, and child-placing agencies; public
39 records exemption.—

40 (2) As used in this section, the term:

41 (j) "Personnel" means all owners, operators, employees, and
42 volunteers working in a child-placing agency or residential
43 child-caring agency who may be employed by or do volunteer work
44 for a person, corporation, or agency that holds a license as a
45 child-placing agency or a residential child-caring agency, but
46 the term does not include those who do not work on the premises
47 at which ~~where~~ child care is furnished and have no direct
48 contact with a child or have no contact with a child outside of
49 the presence of the child's parent or guardian. For purposes of
50 screening, the term includes any member, over the age of 12
51 years, of the family of the owner or operator or any person
52 other than a client, over the age of 12 years, residing with the
53 owner or operator if the agency is located in or adjacent to the
54 home of the owner or operator or if the family member of, or
55 person residing with, the owner or operator has any direct
56 contact with the children. Members of the family of the owner or
57 operator, or persons residing with the owner or operator, who
58 are between the ages of 12 years and 18 years are not required

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59 to be fingerprinted, but must be screened for delinquency
60 records. For purposes of screening, the term also includes
61 owners, operators, employees, and volunteers working in summer
62 day camps, ~~or~~ summer 24-hour camps providing care for children
63 or recreational enrichment programs providing services for
64 children. A volunteer who assists on an intermittent basis for
65 less than 10 hours per month shall not be included in the term
66 "personnel" for the purposes of screening if a person who meets
67 the screening requirement of this section is always present and
68 has the volunteer in his or her line of sight.

69 (1) "Recreational enrichment program" means an organization
70 that provides enrichment activities to children, such as dance
71 instruction, music instruction, gymnastics instruction, or
72 martial arts instruction, offered on an ongoing basis, which
73 takes place partially or fully indoors. The term does not
74 include an organization licensed or registered to provide child
75 care under chapter 402, summer 24-hour camps, or summer day
76 camps.

77 (m) ~~(1)~~ "Residential child-caring agency" means any person,
78 corporation, or agency, public or private, other than the
79 child's parent or legal guardian, that provides staffed 24-hour
80 care for children in facilities maintained for that purpose,
81 regardless of whether operated for profit or whether a fee is
82 charged. Such residential child-caring agencies include, but are
83 not limited to, maternity homes, runaway shelters, group homes
84 that are administered by an agency, emergency shelters that are
85 not in private residences, and wilderness camps. Residential
86 child-caring agencies do not include hospitals, boarding
87 schools, summer or recreation camps, recreational enrichment

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88 programs, nursing homes, or facilities operated by a
89 governmental agency for the training, treatment, or secure care
90 of delinquent youth, or facilities licensed under s. 393.067 or
91 s. 394.875 or chapter 397.

92 (4)

93 (d) This license requirement does not apply to boarding
94 schools, recreation and summer camps, recreational enrichment
95 programs, nursing homes, hospitals, or to persons who care for
96 children of friends or neighbors in their homes for periods not
97 to exceed 90 days or to persons who have received a child for
98 adoption from a licensed child-placing agency.

99 (6)

100 (e)1. The department may pursue other remedies provided in
101 this section in addition to denial or revocation of a license
102 for failure to comply with the screening requirements. The
103 disciplinary actions determination to be made by the department
104 and the procedure for hearing for applicants and licensees shall
105 be in accordance with chapter 120.

106 2. When the department has reasonable cause to believe that
107 grounds for denial or termination of employment exist, it shall
108 notify, in writing, the applicant, licensee, ~~or~~ summer or
109 recreation camp, or recreational enrichment program, and the
110 personnel affected, stating the specific record that indicates
111 noncompliance with the screening requirements.

112 3. Procedures established for hearing under chapter 120
113 shall be available to the applicant, licensee, summer day camp,
114 ~~or~~ summer 24-hour camp, or recreational enrichment program, and
115 affected personnel, in order to present evidence relating either
116 to the accuracy of the basis for exclusion or to the denial of

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117 an exemption from disqualification. Such procedures may also be
118 used to challenge a decision by a community-based care lead
119 agency's refusal to issue a letter supporting an application for
120 licensure. If the challenge is to the actions of the community-
121 based care lead agency, the respondent to the challenge shall be
122 the lead agency and the department shall be notified of the
123 proceedings.

124 4. Refusal on the part of an applicant to dismiss personnel
125 who have been found not to be in compliance with the
126 requirements for good moral character of personnel shall result
127 in automatic denial or revocation of license in addition to any
128 other remedies provided in this section which may be pursued by
129 the department.

130 (1) The department may not license summer day camps, ~~or~~
131 summer 24-hour camps, or recreational enrichment programs.
132 However, the department shall have access to the personnel
133 records of such facilities to ensure compliance with the
134 screening requirements. The department may adopt rules relating
135 to the screening requirements for summer day camps, ~~and~~ summer
136 24-hour camps, and recreational enrichment programs.

137 (10)(a) The department may institute injunctive proceedings
138 in a court of competent jurisdiction to:

139 1. Enforce the provisions of this section or any license
140 requirement, rule, or order issued or entered into pursuant
141 thereto; or

142 2. Terminate the operation of an agency in which any of the
143 following conditions exist:

144 a. The licensee has failed to take preventive or corrective
145 measures in accordance with any order of the department to

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146 maintain conformity with licensing requirements.

147 b. There is a violation of any of the provisions of this
148 section, or of any licensing requirement promulgated pursuant to
149 this section, which violation threatens harm to any child or
150 which constitutes an emergency requiring immediate action.

151 3. Terminate the operation of a summer day camp or summer
152 24-hour camp providing care for children or a recreational
153 enrichment program providing services for children when such
154 camp or program has willfully and knowingly refused to comply
155 with the screening requirements for personnel or has refused to
156 terminate the employment of personnel found to be in
157 noncompliance with the requirements for good moral character as
158 determined in paragraph (5) (b).

159 (b) If the department finds, within 30 days after written
160 notification by registered mail of the requirement for
161 licensure, that a person or agency continues to care for or to
162 place children without a license or, within 30 days after
163 written notification by registered mail of the requirement for
164 screening of personnel and compliance with paragraph (5) (b) for
165 the hiring and continued employment of personnel, that a summer
166 day camp, ~~or~~ summer 24-hour camp, or recreational enrichment
167 program continues to provide care for or services to children
168 without complying, the department shall notify the appropriate
169 state attorney of the violation of law and, if necessary, shall
170 institute a civil suit to enjoin the person or agency from
171 continuing the placement or care of children, or to enjoin the
172 summer day camp, ~~or~~ summer 24-hour camp, or recreational
173 enrichment program from continuing the care of, or providing
174 services to, children.

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175 (c) Such injunctive relief may be temporary or permanent.

176 (12)(a) It is unlawful for any person or agency to:

177 1. Provide continuing full-time care for or to receive or
178 place a child apart from her or his parents in a residential
179 group care facility, family foster home, or adoptive home
180 without a valid license issued by the department if such license
181 is required by subsection (5); or

182 2. Make a willful or intentional misstatement on any
183 license application or other document required to be filed in
184 connection with an application for a license.

185 (b) It is unlawful for any person, agency, family foster
186 home, summer day camp, or summer 24-hour camp providing care for
187 children to:

188 ~~1.~~ willfully or intentionally fail to comply with the
189 requirements for the screening of personnel and family foster
190 homes or the dismissal of personnel or removal of household
191 members found not to be in compliance with the requirements for
192 good moral character as specified in paragraph (5)(b).

193 (c)2. It is unlawful for any person, agency, family foster
194 home, summer day camp, or summer 24-hour camp providing care for
195 children, or any recreational enrichment program providing
196 services to children, to use information from the criminal
197 records obtained under this section for any purpose other than
198 screening a person for employment as specified in this section
199 or to release such information to any other person for any
200 purpose other than screening for employment as specified in this
201 section.

202 (d)~~(e)~~ It is unlawful for any person, agency, family foster
203 home, summer day camp, or summer 24-hour camp providing care for

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204 children, or any recreational enrichment program providing
205 services to children, to use information from the juvenile
206 records of any person obtained under this section for any
207 purpose other than screening for employment as specified in this
208 section or to release information from such records to any other
209 person for any purpose other than screening for employment as
210 specified in this section.

211 (e)~~(d)~~1. A first violation of paragraph (a), ~~or~~ paragraph
212 (b), or paragraph (c) is a misdemeanor of the first degree,
213 punishable as provided in s. 775.082 or s. 775.083.

214 2. A second or subsequent violation of paragraph (a), ~~or~~
215 paragraph (b), or paragraph (c) is a felony of the third degree,
216 punishable as provided in s. 775.082 or s. 775.083.

217 3. A violation of paragraph (d) ~~paragraph (e)~~ is a felony
218 of the third degree, punishable as provided in s. 775.082, s.
219 775.083, or s. 775.084.

220 Section 2. Section 409.1751, Florida Statutes, is created
221 to read:

222 409.1751 Statewide background screening public awareness
223 campaign.—The department, in conjunction with the Agency for
224 Health Care Administration and the Department of Law
225 Enforcement, shall develop and maintain a statewide public
226 awareness campaign of the state's background screening
227 requirements in s. 409.175 for summer day camps, summer 24-hour
228 camps, and recreational enrichment programs. The campaign must
229 include, but is not limited to, Internet, television, radio, and
230 outdoor advertising and public service announcements.

231 Section 3. Paragraph (b) of subsection (2) of section
232 409.1676, Florida Statutes, is amended to read:

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233 409.1676 Comprehensive residential group care services to
234 children who have extraordinary needs.-

235 (2) As used in this section, the term:

236 (b) "Residential group care" means a living environment for
237 children who have been adjudicated dependent and are expected to
238 be in foster care for at least 6 months with 24-hour-awake staff
239 or live-in group home parents or staff. Each facility must be
240 appropriately licensed in this state as a residential child-
241 caring ~~child-caring~~ agency as defined in s. 409.175(2)(m) ~~s.~~
242 ~~409.175(2)(1)~~ and must be accredited by July 1, 2005. A
243 residential group care facility serving children having a
244 serious behavioral problem as defined in this section must have
245 available staff or contract personnel with the clinical
246 expertise, credentials, and training to provide services
247 identified in subsection (4).

248 Section 4. This act shall take effect July 1, 2025.