

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB HFS 13-02 Residential Services for Children

**SPONSOR(S):** Healthy Families Subcommittee; Perry

**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Healthy Families Subcommittee		Entress	Schoolfield

### SUMMARY ANALYSIS

The bill amends ss. 409.175 and 409.176 related to boarding schools and residential child caring agencies and family foster homes. The bill makes the following changes to these sections of law:

- Provides clarification to boarding school accreditation requirements and adds academic accrediting sources to the list of choices in statute.
- Provides clarification regarding boarding school registration requirements as a private school and sets a timeframe for applying for accreditation. The bill directs the Department of Education (DOE) to remove boarding schools who fail to comply with these requirements.
- Requires boarding schools to report to the Department of Children and Families (DCF) on accreditation progress.
- Requires level 2 background screening of boarding school employees or contractors with direct student contact.
- Sets a timeframe of 24 hours for the qualified association under s. 409.176, F.S., to notify DCF when a specified violations relating to harming children occurs.
- Sets a timeframe of 3 days for the qualified association to notify DCF of facilities who are not licensed or properly registered for residential child care.
- Adds reporting requirements for the qualified association.
- Grants DCF the authority to fine the qualified association for failure to comply with statutory requirements.

The bill does not appear to have a fiscal impact on state or local funds.

The bill has an effective date of July 1, 2013.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Current Situation:**

##### Residential Services for Children

Currently, residential facilities serving children are either licensed by the Department of Children and Families (DCF), registered with the Florida Association of Christian Child Caring Agencies (FACCCA), or registered with the Department of Education (DOE) as a boarding school.

##### *Boarding Schools*

Florida boarding schools are currently described and regulated by a definition under s. 409.175(2)(b), F.S. Boarding schools must be registered with the Department of Education as a private school and they must be accredited. The registration occurs online and does not require any facility inspections by the Department of Education. An annual online survey (which is the same as the initial registration form) is also required by DOE<sup>1</sup>.

Boarding schools must be accredited by an academic accrediting organization which is either the Florida Council of Independent Schools or the Southern Association of Colleges and Schools, and accredited by a residential accrediting entity which is either the Council on Accreditation, the Commission on Accreditation of Rehabilitation Facilities, or the Coalition for Residential Education.

Boarding schools are required to follow established school schedules, with holiday breaks and summer recesses in accordance with other public and private school programs. The parents of children in boarding schools retain custody and planning and financial responsibility. With the exception of foreign students, children in boarding schools are required to return to their family homes or legal guardians during school breaks and must not be in residence year-round.

A boarding school currently in existence and a boarding school opening and seeking accreditation have 3 years to comply with the accreditation requirements described above. Boarding schools must provide proof of accreditation or documentation of the accreditation process upon request. A boarding school that cannot produce the required documentation or that has not registered with the DOE shall be considered to be providing residential group care without a license. DCF can impose administrative sanctions or seek civil remedies for noncompliance with statutory requirements for boarding schools.

##### *Registration of Residential Child Caring Agencies and Family Foster Homes*

Section 409.176, F.S. requires registration of residential child-caring agencies and family foster homes. This requirement applies to a facility which is a religious organization that does not directly receive state or federal funds or is a family foster home that is associated with such an organization and does not directly receive state or federal funds. These are referred to in statute as Type II facilities.<sup>2</sup> These facilities are also exempted from licensure by DCF as long as they become registered under s. 409.176.

These facilities must be registered by a Florida Statewide Childcare Organization which was in existence on January 1, 1984. The only organization currently used is the Florida Association of Christian Child Caring Agencies (FACCCA).<sup>3 4</sup> FACCCA currently registers 22 residential child caring

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<sup>1</sup> S.1002.42(b), F.S.

<sup>2</sup> S.409.176,(4),F.S.

<sup>3</sup> S.409.176(5)(b),F.S.

<sup>4</sup> [http://www.faccca.com/about\\_us](http://www.faccca.com/about_us)

facilities and is headquartered in Lake City.<sup>5</sup> The standards for registration used by FACCCA are required to be in substantial compliance to similar standards used to license similar child caring agencies. DCF is charged in statute to determine that the standards are in compliance and thereafter receives updates to the standards within 10 days of adoption.<sup>6</sup>

The registered facilities must enter into contracts with parents, guardians or others with legal custody prior to the child entering a facility. The law requires the contracts will:<sup>7</sup>

- List basic services and accommodations provided;
- State that the facility is a type II facility;
- Contain the address of the registering association (FACCCA);
- Specify charges; if any,
- Contain a clear statement of disciplinary procedures;
- State a goal to return the child within 1 year of entering the facility; and
- Provide an authorization for the facility administrator to consent to routine and emergency medical care.

FACCCA must notify DCF when there is a violation of requirements in s. 409.176 which threatens harm to a child.<sup>8</sup> DCF is to notify the state attorney when there is a violation of law reported and shall file civil suit when needed to stop the facility from continuing care.<sup>9</sup> DCF also has authority to institute injunctive proceedings in court to enforce requirements of s. 409.176, F.S., or terminate facility operations.<sup>10</sup>

### Background Screening

The level 2 background screening includes, but is not limited to, fingerprinting for statewide criminal history records checks through the Department of Law Enforcement, and national criminal history records checks through the Federal Bureau of Investigation, and may include local criminal records checks through local law enforcement agencies.

Registered Type II facilities are required to be screened in accordance with the requirements for licensed residential child caring agencies pursuant to s. 409.175,(2). This includes all owners, operators, employees, and volunteers working in the agency. Background screening is not specifically required for boarding schools.

### Effect of Proposed Changes:

#### Boarding Schools

The bill clarifies that boarding schools must receive one accreditation for academic programs and one accreditation for residential programs. Current law specifies the accrediting bodies that boarding schools must use, but does not specify which programs the boarding schools must be accredited as within those organizations.

The bill also adds additional organizations available for academic accreditation of boarding schools. These include accrediting associations affiliated with the National Council for Private School Accreditation and the Florida Association of Academic Nonpublic Schools.

Currently, boarding schools must register as a school with DOE, but the statute does not require schools to register as a residential school. The registration form that schools must complete for

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<sup>5</sup> Florida Association of Christian Child Caring Agencies, registered members (on file with Healthy Families committee staff)

<sup>6</sup> S.409.176(5)(b),F.S.

<sup>7</sup> S.4093.176(6),F.S.

<sup>8</sup> S. 409.176(10)(a), F.S.

<sup>9</sup> S. 409.176(10)(b), F.S.

<sup>10</sup> S. 409.176(9)(c), F.S.

registration includes an option to choose that a school is residential.<sup>11</sup> The bill clarifies that boarding schools must register with DOE as a school which provides residential service for students.

The bill clarifies that boarding schools must achieve accreditation within 3 years of the registration date with DOE. The bill also directs DOE to remove boarding schools from registration and from the DOE website (for private schools) if they:

- Have not achieved the required accreditations within timeframes specified; or
- Have not provided to DOE and DCF required verification that an application for accreditation has been received by the accrediting organization within 270 days of registration with DOE.

The bill specifies that DCF may request proof of accreditation or documentation of the accreditation process. In addition, the bill requires schools which are not yet accredited, to provide an annual report to DCF on the status of required accreditation. The first report is due 12 months after the date of registration with DOE.

The bill also requires background screenings for boarding school employees and contracted personnel with direct student contact. The background screening must use level 2 standards, provided in ch. 435, F.S. The bill allows DCF to consider and grant exemptions from disqualifications from working with children based on certain offenses, as specified in s. 435.07, F.S.

#### Registration of Residential Child Caring Agencies and Family Foster Homes

The bill adds a timeframe of 24 hours for the qualified association under s. 409.176, F.S., to notify DCF when a specified violation occurs which threatens harm to any child or constitutes an emergency requiring immediate action. There is no current timeframe regarding when a qualified association must report this.

The bill also changes the time requirement for a qualified association to notify DCF that a person or facility is caring for children without proper registration or licensure. The time period is changed from 30 days to 3 days.

The bill also adds three requirements to the information that qualified association issuing certificates of registration under s. 409.176, F.S., must report to DCF annually. These include:

- The average length of stay for children by Type II facility;
- The number of violations by the Type II facility; and
- A list of person or facilities, including the address, that applied for registration pursuant to this section and were denied or withdrew the request.

The bill also grants DCF rulemaking authority to implement the annual report requirements.

The bill allows DCF to impose an administrative fine against the qualified association, up to \$250 per violation for failure to comply with the requirements of s. 409.176, F.S.

#### B. SECTION DIRECTORY:

**Section 1:** Amends 409.175, F.S., related to licensure of family foster homes, residential child-caring agencies, and child placing agencies; public records exemption.

**Section 2:** Amends 409.175, F.S., related to licensure of family foster homes, residential child-caring agencies, and child placing agencies; public records exemption

**Section 3:** Amends 409.176, F.S. related to registration of residential child-caring agencies and family foster homes.

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<sup>11</sup> Communication with House of Representatives Education Committee staff.

**Section 4:** Amends 409.176, F.S. related to registration of residential child-caring agencies and family foster homes.

**Section 5:** Creates an effective date.

## 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:

None

### D. FISCAL COMMENTS:

None

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments

2. Other:

None

### B. RULE-MAKING AUTHORITY:

Yes. Authority is granted to DCF for reporting requirements in s. 409.176, F.S.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

