

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 367 Registration of Residential Child-caring Agencies and Family Foster Homes

SPONSOR(S): Plakon

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee		Curry	Brazzell
2) Health Care Appropriations Subcommittee			
3) Health & Human Services Committee			

SUMMARY ANALYSIS

A “residential child-caring agency” is a residential facility or agency that provides staffed 24-hour care for children in residential facilities. Residential child-caring agencies 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. A “family foster home” is a residence in which children who are unattended by a parent or legal guardian are provided 24-hour care.

Florida law currently requires residential child-caring agencies and family foster homes to be licensed by the Department of Children and Families (DCF) under most circumstances. However, an agency which is a religious organization, or is a family foster home that is associated with such an organization, that does not directly receive state or federal funds is exempt from licensure. If not licensed, these agencies and homes must be registered under s. 409.176, F.S.

These facilities must be registered by a “qualified organization.” A qualified organization is limited to being an association certified by a Florida statewide childcare organization that was in existence on January 1, 1984. The Florida Association of Christian Child Caring Agencies (FACCCA) is currently the only qualified organization in Florida, which makes it the sole authority responsible for the registration and oversight of faith-based residential child caring agencies and family foster homes that qualify and choose not be licensed.

The bill removes the requirement that the Florida statewide organization be in existence on January 1, 1984, thereby allowing other statewide child care organizations founded more recently to certify as an association to oversee the registration and oversight of faith-based residential child caring agencies and family foster homes in Florida.

This bill will not have a fiscal impact on state or local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Residential Child-Caring Agencies and Family Foster Homes

A “residential child-caring agency” is a residential facility or agency that provides staffed 24-hour care for children in residential facilities. Residential child-caring agencies 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 a residence in which children who are unattended by a parent or legal guardian are provided 24-hour care.² Residential child-caring agencies and family foster homes must either be licensed by the Department of Children and Families (DCF) or registered.

DCF Licensure of Child-Caring Agencies and Family Foster Homes

Licensure of child-caring agencies and family foster homes involves meeting rules and regulations pertaining to:

- The operation, conduct, and maintenance of these homes,
- The provision of food, clothing, educational opportunities, services, equipment, and individual supplies to assure the healthy physical, emotional, and mental development of the children served,
- The appropriateness, safety, cleanliness, and general adequacy of the premises, including fire prevention and health standards, to provide for the physical comfort, care, and well-being of the children served,
- The ratio of staff to children required to provide adequate care and supervision of the children served,
- The maximum number of children in the home, and
- The good moral character based upon screening, education, training, and experience requirements for personnel.³

These licensure standards are the minimum requirements that must be met to care for children within the child welfare system. DCF must issue a license for those homes and agencies that meet the minimum licensure standards.⁴ However, the issuance of a license does not require a community-based care lead agency under contract with DCF to place a child with any home or agency.⁵

The following placements do not require licensure under the licensing statute:

- Relative caregivers,⁶
- Non-relative caregivers,⁷
- An adoptive home which has been approved by the department or by a licensed child-placing agency for children placed for adoption,⁸ and
- Persons or neighbors who care for children in their homes for less than 90 days.⁹

Registration of Exempt Religious Organizations

¹ Section 409.175(2)(l), F.S.

² Section 409.175(2)(e), F.S.

³ Section 409.175(5)(b), F.S.

⁴ Section 409.175(6)(h), F.S.

⁵ Section 409.175(6)(i), F.S.

⁶ Section 409.175(4)(a), F.S.

⁷ Id.

⁸ Section 409.175(1)(e), F.S.

⁹ Section 409.175(4)(d), F.S.

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 is exempt from licensure, but if unlicensed must be registered under s. 409.176, F.S.

These facilities, called Type II facilities, must be registered by a “qualified organization”. Section 409.176, F.S., specifies that to be a qualified organization, an entity must:

- Be an association certified by a Florida statewide child care organization, which organization was in existence on January 1, 1984.¹⁰
- Publish and require compliance with its standards, which must be filed with DCF.

The standards for registration must substantially comply with the minimal published DCF regulations that similar licensed child-caring agencies or family foster homes are required to meet, with exceptions of those standards of a curricular or religious nature and those relating to staffing or financial stability.¹¹ DCF is obligated by statute to determine if the standards for registration are in substantial compliance. Once compliance is determined, the qualified organization does not have to resubmit its standards unless there are changes which must be submitted to DCF within 10 days of adoption.

Facilities registered by the qualified organization must comply with both the statutory regulations as well as the standards established by the association.¹²

The qualified organization is required to notify DCF within 24 hours upon finding a violation that threatens harm to a child or constitutes an emergency requiring immediate action.¹³ DCF must also be notified within three calendar days after the qualified organization determines that a facility is operating without a certificate of registration or license.¹⁴ 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.¹⁵ DCF also has authority to institute injunctive proceedings in court to enforce the statutory requirements or terminate facility operations.¹⁶ DCF is also authorized to investigate concerns of abuse, abandonment, or neglect.¹⁷

The qualified organization is required to annually report to DCF:

- 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.¹⁸

Currently, under Rule 65D-46.001, F.A.C., the Florida Association of Christian Child Caring Agencies (FACCCA) is the only qualified organization in Florida, which makes it the sole authority responsible for the registration and oversight of faith-based residential child caring agencies and family foster homes exempt from licensure by DCF.¹⁹

Florida Association of Christian Child Caring Agencies

¹⁰ Section 409.176(5)(b), F.S.

¹¹ Id.

¹² Id.

¹³ Section 409.176(10)(a), F.S.

¹⁴ Section 409.176(10)(b), F.S.

¹⁵ Id.

¹⁶ Section 409.176(9)(c), F.S.

¹⁷ See Chapter 39, F.S.

¹⁸ Section 409.176(15), F.S.

¹⁹ FACCCA website at <https://www.faccca.com/about> (last visited February 15, 2023). Also see Rule 65D-46.001, F.A.C.

The FACCA is a not-for-profit Florida corporation that has been active since 1982.²⁰ According to its website, the FACCCA registers four types of children's services: residential care, maternity, adoption and substitution families, and restoration.

- **Residential Care** – provides 24-hour care for displaced children in a family structured residential care home. There are eight FACCA registered residential care facilities.
 - Edgewood Children's Ranch
 - Hope Children's Home
 - The Butterfly Garden
 - Liberty Youth Ranch
 - My Father's Arrows
 - Mount Dora Children's Home
 - Rodeheaver Boys Ranch
 - The Russell Home²¹

- **Maternity** – provides maternity homes for mothers before and after pregnancy. There are five FACCCA registered maternity homes.
 - Hannah's Home
 - Mater Filius Miami
 - St Gerard Campus
 - Thrive
 - Sunlight Home²²

- **Adoption & Substitute Families** – Provides adoption services through DCF licensed agencies and substitute families/foster care services. There are three FACCCA registered adoption and substitute family agencies.
 - Abide to Love
 - Alpha-Omega Miracle Home
 - Bundle of Hope²³

- **Restoration** – provides homes for troubled children and teens in need of specialized help. There are eight FACCAA registered restoration homes.
 - Gateway Academy
 - Gator Wilderness Camp
 - Heart to Heart International
 - Lighthouse Children's Home
 - My Father's Arrows
 - Providence Pass LLC
 - Safe Harbor Boys Home
 - Treasure Coast Academy²⁴

Currently, there are a total of 23 residential child caring facilities registered with the FACCCA throughout the state.^{25 26}

Effect of the Bill

²⁰Florida Division of Corporations Search Records indicates that the FACCCA has been an active organization since February 22, 1982, available at <https://dos.myflorida.com/sunbiz/search/> (last visited February 16, 2023).

²¹ FACCCA website at <https://www.faccca.com/residential-care> (last visited February 17, 2023).

²² FACCCA website at <https://www.faccca.com/maternity-homes> (last visited February 17, 2023).

²³ FACCCA website at <https://www.faccca.com/adoption-homes> (last visited February 17, 2023).

²⁴ FACCCA website at <https://www.faccca.com/restoration-homes> (last visited February 17, 2023).

²⁵ FACCCA website at <https://www.faccca.com/about> (last visited February 15, 2023).

²⁶ Recent news reports addressed two facilities registered with the FACCCA after reported instances of abuse of children in their care and a death. White, G. (August 15, 2021) Parents of teen girl who died at Lakeland Girls Academy consider lawsuit, *The Ledger*, <https://www.theledger.com/story/news/local/2021/08/15/lakeland-girls-academy-parents-student-who-died-mull-legal-action/5535863001/> (last visited on February 16, 2023). Also see, ABC News, Former Hope Children's Home Residents Allege Frequent Paddlings, Isolation and Humiliation at Home, accessible at <https://www.abcnews.com/news/local-news/i-team-investigates/former-hope-childrens-home-residents-allege-frequent-paddlings-isolation-and-humiliation-at-home> (last visited February 16, 2023).

The bill removes the limitation that the Florida statewide child care organization that certifies the "qualified organization" was in existence on January 1, 1984. Removal of this language will allow other entities that began operating during or after 1984 to certify associations to be qualified organizations to register faith-based residential child caring agencies and family foster homes in Florida. FACCCA will remain eligible to continue as a qualified organization as long as it continues to meet the other statutory requirements. Any child-caring organization additionally certified as a new qualified organization will need to comply with the current statutory requirements regarding the functions and responsibilities that currently apply to FACCCA.

The bill also requires that changes to the qualified organization's standards must be provided to DCF within 10 days "after" the standards are adopted. Current language requires changes to standards to be submitted within 10 days "of" adoption. This amendment explicitly specifies the timeframe for submittal as 10 days after adoption.

B. SECTION DIRECTORY:

Section 1: Amends section 409.176, F.S., relating to registration of residential child-caring agencies and family foster homes.

Section 2: Provides an effective date of July 1, 2023.

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:

Current law provides DCF with sufficient rulemaking authority to execute the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES