

**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 Judiciary

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BILL: SB 610

INTRODUCER: Senator Yarborough

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

DATE: April 3, 2023

REVISED: 3/28/23

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Tuszynski</u>	<u>Cox</u>	<u>CF</u>	<b>Favorable</b>
2.	<u>Collazo</u>	<u>Cibula</u>	<u>JU</u>	<b>Pre-meeting</b>
3.	<u></u>	<u></u>	<u>RC</u>	

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**I. Summary:**

SB 610 removes the statutory limitation providing that an organization or entity must have been in existence on January 1, 1984 to be considered a “qualified association” under state law.

Qualified associations can register certain faith-based child-caring facilities and foster homes, enabling them to accept children who are voluntarily placed there by their families outside of Florida’s child welfare system.

Currently, the Florida Association of Christian Child Caring Agencies, Inc. is the only organization that meets the January 1, 1984 requirement. However, the bill allows other organizations and entities that began operating after January 1, 1984 to also become qualified associations.

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

The bill takes effect on July 1, 2023.

**II. Present Situation:**

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

Residential child-caring agencies and family foster homes, referred to as “facilities,” must be either licensed by the Department of Children and Families under the licensing statute, s. 409.175, F.S., or registered under the registration statute, s. 409.176, F.S.<sup>1</sup>

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<sup>1</sup> Facilities licensed under s. 409.175, F.S., are classified as “Type I” facilities, and facilities registered under s. 409.176, F.S., are classified as “Type II” facilities. Section 409.176(4), F.S.

A “residential child-caring agency” is defined as any person, corporation, or agency, public or private, other than the child’s parent or legal guardian, which provides staffed, 24-hour care for children in facilities maintained for that purpose. 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.<sup>2</sup>

A “family foster home” is defined as a residence licensed by the department in which children who are unattended by a parent or legal guardian are provided 24-hour care, excluding adoptive homes.<sup>3</sup>

### ***Licensure by the Department of Children and Families***

Under s. 409.175, F.S., a residential child-caring agency or family foster home may not provide continuing full-time child care or custody unless it has first obtained a license from the department to provide such care.<sup>4</sup>

Licensure of a facility under the statute requires meeting certain minimum standards relating to:

- Operation, conduct, and maintenance.
- Provision of food, clothing, education, services, equipment, and supplies to ensure healthy physical, emotional, and mental development of children.
- Appropriateness, safety, cleanliness, and adequacy of the premises.
- Staff to child ratio for adequate care and supervision and, in the case of family foster homes, the maximum number of children in the home.
- Good moral character of personnel.
- Qualifications with respect to working with children or the developmentally disabled.
- Provision of pre-service and in-service training for foster parents and agency staff.
- Financial ability.
- Maintenance of admission, progress, health, and discharge records.
- Provision of parental involvement to encourage the preservation and strengthening of a child’s relationship with the family.
- Transportation safety.
- Provision for safeguarding cultural, religious, and ethnic values.
- Provision for safeguarding the legal rights of children served.<sup>5</sup>

The department must issue licenses to facilities meeting minimum licensure standards,<sup>6</sup> although the receipt of a license by such a facility does not mean that a community-based care lead agency<sup>7</sup> under contract with the department must place a child in that agency or home.<sup>8</sup>

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<sup>2</sup> Section 409.175(2)(l), F.S.

<sup>3</sup> Section 409.175(2)(e), F.S.

<sup>4</sup> Section 409.175(4)(a), F.S.

<sup>5</sup> Section 409.175(5)(b), F.S.

<sup>6</sup> Section 409.175(6)(i), F.S.

<sup>7</sup> A community-based care lead agency is an agency that has contracted with the department to provide child welfare services in local communities for children who have been abused, neglected, or abandoned. *See generally* Florida Department of Children and Families, *Community Based Care*, <https://www.myflfamilies.com/services/child-family/child-and-family-well-being/community-based-care> (last visited Mar. 31, 2023).

<sup>8</sup> Section 409.175(6)(j), F.S.

Notwithstanding these requirements, the following placements are exempt from licensure:

- With relative caregivers.<sup>9</sup>
- With an adoptive home that has been approved for children up for adoption.<sup>10</sup>
- With boarding schools, recreation and summer camps, nursing homes, hospitals, or persons who care for children of friends or neighbors in their homes for less than 90 days.<sup>11</sup>
- With a religious organization that does not directly receive state or federal funds, or a family foster home associated with such an organization that does not directly receive state or federal funds.<sup>12</sup>

***Registration of Exempt Religious Facilities by a Qualified Association***

Even if certain facilities are exempt from licensure, they must still be registered with what is known as a “qualified association” before they may receive children for full-time care or custody.<sup>13</sup>

As noted above, certain religious organizations are exempt from licensure requirements. Additionally, facilities operated by an organization that is a qualified association, or facilities that have been issued a certificate of registration by a qualified association, are also not subject to the licensure requirements.<sup>14</sup>

To register these facilities under state law, a qualified association must:

- Be an association certified by a Florida statewide child care organization that was in existence on January 1, 1984.
- Publish its standards, file them with the department, and ensure that registered facilities comply with them.<sup>15</sup>

The published standards of the qualified association must substantially comply with certain minimum regulations published by the department that are similar to the regulations that licensed child-caring agencies or family foster homes are required to meet, but that do not include curricular or religious standards, or standards relating to staffing or financial ability.<sup>16</sup>

The department is required to determine whether the qualified association’s registration standards substantially comply with state law, and if they do, the qualified association does not need to resubmit them unless there are changes.<sup>17</sup> Any changes must be provided to the department within 10 days after their adoption.<sup>18</sup>

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

<sup>10</sup> Section 409.175(2)(e), F.S.

<sup>11</sup> Section 409.175(4)(d), F.S.

<sup>12</sup> Section 409.176(5)(a), F.S.

<sup>13</sup> Section 409.176(1), F.S.

<sup>14</sup> Section 409.176(5), F.S.

<sup>15</sup> Sections 409.176(1)(a) and 409.176(5)(b), F.S.

<sup>16</sup> Section 409.176(5)(b), F.S.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

Qualified associations are required to notify the department within 24 hours upon finding a violation that threatens harm to a child or constitutes an emergency requiring immediate action.<sup>19</sup> They must also notify the department within 3 calendar days upon finding that a facility is operating without a certificate of registration or license.<sup>20</sup> In turn, the department must notify the state attorney whenever a violation of law is reported and, if necessary, file suit to stop the facility from continuing care.<sup>21</sup>

Additionally, the department retains its more general authority to investigate possible instances of abuse, abandonment, or neglect,<sup>22</sup> and to commence injunctive proceedings in court to enforce statutory requirements or terminate facility operations.<sup>23</sup>

With respect to reporting requirements in connection with their activities, qualified associations must annually report to the department:

- 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.<sup>24</sup>

### **Florida Association of Christian Child Caring Agencies, Inc.**

The Florida Association of Christian Child Caring Agencies, Inc. is a not-for-profit Florida corporation based in Tampa that has been active since 1982.<sup>25</sup>

Under current law, the association is the only organization that meets the requirements to be a qualified association, and is therefore the only qualified association presently responsible for the required standards, registration, and oversight of licensure-exempt faith-based facilities.<sup>26</sup>

The association has registered 23 facilities statewide,<sup>27</sup> including residential care homes, maternity homes, adoption and substitution family homes, and restoration homes as follows:

- *Residential Care Homes* provide 24-hour care in family-structured residential homes. The association registers 8 residential care homes.<sup>28</sup>

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<sup>19</sup> Section 409.176(10)(a), F.S.

<sup>20</sup> Section 409.176(10)(b), F.S.

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

<sup>22</sup> *See generally* ch. 39, F.S.

<sup>23</sup> Section 409.176(10)(c), F.S.

<sup>24</sup> Section 409.176(15), F.S.

<sup>25</sup> Florida Division of Corporations Search Records indicates that the association has been an active organization since February 22, 1982. *See* Florida Division of Corporations, *Search Records: Florida Association of Christian Child-Caring Agencies, Inc.*, <https://dos.myflorida.com/sunbiz/search/> (last visited March 31, 2023).

<sup>26</sup> Department of Children and Families, *2023 Agency Legislative Bill Analysis for SB 610*, at 2, Feb. 17, 2023 (on file with the Committee on Children, Families, and Elder Affairs); *see also* Fla. Admin. Code R. 65C-46.001(8) (defining the association as “the authority responsible for the registration and oversight of faith-based residential group homes, family foster homes, and adoption agencies” (emphasis added)).

<sup>27</sup> Department of Children and Families, *supra* note 26, at 2. Note that one of Residential Care Members, My Father’s Arrows, is also a Restoration Home, which explains the discrepancy between the number of registered members listed in the bill analysis (23), and the number of members on the website (24).

<sup>28</sup> Florida Association of Christian Child Caring Agencies (FACCCA), *Residential Care*, <https://www.faccca.com/residential-care> (last visited March 31, 2023).

- *Maternity Homes* provide care for pregnant girls in need, of various ages, during and after their pregnancies. The association registers 5 maternity homes.<sup>29</sup>
- *Adoption and Substitute Family Homes* provide adoption services and temporary loving homes for children that are similar to foster homes, until a permanent placement can be made. The association registers 3 agencies that provide adoption and substitute family homes.<sup>30</sup>
- *Restoration Homes* provide homes for troubled children and teens in need of specialized help. The association registers 8 restoration homes.<sup>31</sup>

Note that foster homes and residential child-caring agencies that are registered with a qualified association are not allowed to care for children who are placed in out-of-home care pursuant to the state's child welfare system.<sup>32</sup> One of the requirements of registered facilities and qualified associations is that they are not permitted to directly receive state or federal funds;<sup>33</sup> these are privately-funded facilities in which families voluntarily place their children.

### III. Effect of Proposed Changes:

The bill removes the statutory 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 change allows organizations and entities that began operating after January 1, 1984 to also become qualified associations.

The Florida Association of Christian Child Caring Agencies, Inc. 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 its status as, a qualified association.

The bill takes effect on July 1, 2023.

### IV. Constitutional Issues:

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

None.

#### B. Public Records/Open Meetings Issues:

None.

<sup>29</sup> FACCCA, *Maternity Homes*, <https://www.faccca.com/maternity-homes> (last visited March 31, 2023).

<sup>30</sup> FACCCA, *Adoption & Substitute Family Homes*, <https://www.faccca.com/adoption-homes> (last visited March 31, 2023).

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

<sup>32</sup> See generally ch. 39, F.S. (governing proceedings relating to children).

<sup>33</sup> Department of Children and Families, *supra* note 26, at 2.

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 department states that the bill will not have an impact on state government.<sup>34</sup>

**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.

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<sup>34</sup> *Id.* at 4.

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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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