

must provide access to authorized staff of schools, including VPK providers, to electronic verification of information from specified employment-screening tools.

The bill requires VPK providers to adhere to specified ethics standards, especially with respect to employment practices.

The bill requires that entities that accredit Voluntary Prekindergarten (VPK) programs must have written standards that meet or exceed the state's licensing requirements and must conduct at least one onsite visit to the provider prior to accreditation.

The bill allows private and public VPK providers to assign a substitute instructor who does not meet the VPK program instructor qualifications to temporarily replace a credentialed instructor under specified circumstances, and gives AWI rulemaking authority to govern the use of substitute instructors in VPK programs.

This bill amends sections 402.316, 411.01, 435.04, 1001.10, 1002.55, 1002.61, 1002.63 and 1002.69, Florida Statutes. The bill amends ss. 402.27 and 409.178, F.S., and renumbers them as ss. 411.0101 and 411.0102, F.S., respectively.

II. Present Situation:

Early Learning Coalition Meetings (See Section 3 of CS/SB 1670)

Pursuant to s. 411.01(4), F.S., the delivery of publicly-funded school readiness programs is administered by the Agency for Workforce Innovation (AWI). Local early learning coalitions provide school readiness services that enable parents to work and be financially self-sufficient.¹ Current law contemplates that early learning coalition boards will meet in person to conduct board business. Some coalitions comprise a large geographic area and travel-related issues sometimes hinder the ability of a board to conduct business.²

Child Care Resource and Referral Network (See Section 4 of CS/SB 1670)

Section 402.27(1), F.S., establishes the child care and early childhood resource and referral network in DCF, with preference given to the central agencies for the administration of this program. The network helps families identify quality early learning programs by providing information related to the type of program, hours of services, ages of children served, teacher credentials, and other significant program information. This network is currently housed in AWI.³

Child Care Executive Partnership (See Section 5 of CS/SB 1670)

Section 409.178, F.S., the Child Care Executive Partnership Act, establishes the Child Care Executive Partnership Program. This program uses state and federal funds to match local funds derived from various sources, to create community-based partnerships with employers and provide child care subsidies to low-income working parents. The Legislature is required to annually review the effectiveness of the program and reevaluate the percentage of additional

¹ See ss. 411.01(4) and (5), F.S.

² Michal Ayers, Legislative Affairs, *AWI Bill Analysis SB 1670*.

³ *Id.*

state or federal funds, if any, that can be used for the program's expansion. The program is presently staffed by AWI and administered by the early learning coalitions or their contractors.⁴

Voluntary Pre-Kindergarten

In 2003, the Legislature created a Voluntary Prekindergarten (VPK) Education Program to implement ss. 1(b) and (c) Art. IX of the State Constitution.⁵

Background Screening (See Sections 2 and 6 of CS/SB 1670)

Each prekindergarten instructor, whether employed by a private or public provider, must be screened using level 2 background screening pursuant to s. 435.02, F.S., prior to employment and at least once every five years thereafter.⁶ Level 2 screening includes fingerprints, which are sent to the Florida Department of Law Enforcement and the Federal Bureau of Investigation. In some instances, processing fingerprints can take up to 3 months to complete.⁷ A prekindergarten instructor must be denied or terminated from employment if he or she has been convicted of any of the disqualifying offenses identified in s. 435.04, F.S.⁸

Licensure and Accreditation Requirements (See Section 8 of CS/SB 1670)

To participate in the VPK program, a private prekindergarten provider must be a licensed child care facility, a licensed family day care provider, a licensed large family child care home, a nonpublic school exempt from licensure, or a faith-based child care provider exempt from licensure. If the provider is not licensed, it must be either accredited or designated as a Gold Seal Quality Care facility.⁹

Prekindergarten Instructor Credentials (See Sections 8, 9 and 10 of CS/SB 1670)

In each prekindergarten class, there must be at least one instructor who holds a child development associate credential issued by the National Credentialing Program of the Council for Professional Recognition (NCPCPR), a credential approved by DCF that meets or exceeds the NCPCPR standards¹⁰ or another specified educational credential.¹¹ Current law does not make any provision for allowing an instructor who does not meet the prekindergarten instructor qualifications to substitute in a VPK class. If an approved prekindergarten instructor is absent, the provider must hire another credentialed instructor as a substitute. This provision has placed a substantial burden on providers, as credentialed instructors are not always available to fill in as substitutes when an instructor misses work.¹²

⁴ *Id.*

⁵ Sections 1002.53, *et. seq.*, F.S.

⁶ Sections 1002.55(3)(d), 1002.61(5), and 1002.63(6), F.S.

⁷ Michal Ayers, Legislative Affairs, *AWI Bill Analysis SB 1670*.

⁸ Section 435.04(2), F.S., identifies many disqualifying offenses, including sexual misconduct, abuse, neglect, or exploitation of elderly, disabled or minor persons, murder, manslaughter and certain assault, battery and drug-related offenses.

⁹ Section 1002.55(3)(a) and (b), F.S. The following may accredit a private VPK program: the National Council for Private School Accreditation, the Commission on International and Trans-Regional Accreditation, or the Florida Association of Academic Nonpublic Schools.

¹⁰ Section 1002.55(3)(c), F.S.

¹¹ Section 1002.55(4), F.S.

¹² See Michal Ayers, Legislative Affairs, *AWI Bill Analysis SB 1670*.

III. Effect of Proposed Changes:

Section 1 provides that the act may be cited as the "Success in Early Learning Act."

Section 2 requires DCF to adopt rules establishing minimum standards for screening of child care personnel and for providing notification of employee termination to child care personnel as required by the bill.

Section 3 provides that early learning coalition boards may use telecommunication methods to conduct meetings, including establishing a quorum by telecommunications. The coalition must give the public proper notice of a telecommunications meeting, as well as reasonable access to observe and, when appropriate, participate in such meeting.

Section 4 corrects an obsolete statutory reference relating to the child care resource and referral network by moving the statute governing the program from ch. 402, F.S., to ch. 411, F.S. The program is currently housed in AWI's Office of Early Learning and is no longer under DCF.¹³ The bill gives AWI the authority to adopt rules for the implementation of the child care resource and referral network.

Section 5 moves the Child Care Executive Partnership Act from ch. 409, F.S., to ch. 411, F.S. The program is staffed by AWI's Office of Early Learning. The bill clarifies that the Child Care Executive Partnership purchasing pools are administered by AWI.¹⁴

Section 6 adds to the list of offenses that disqualify child care personnel (including VPK instructors) the following statutory criminal offenses:

- Luring or enticing children (s. 787.025, F.S.);
- Unlawful sexual acts with certain minors (s. 794.05, F.S.);
- Voyeurism (s. 810.14, F.S.);
- Video voyeurism (s. 810.145, F.S.); and
- Any delinquent act that qualified or would have qualified an individual for inclusion on the Registered Juvenile Sex Offender List pursuant to s. 943.0435(1)(a)1.d., F.S.

These offenses are not currently identified as disqualifying offenses under s. 435.04, F.S.

Section 7 specifies that DOE must provide technical assistance in the development of policies, procedures and training related to educator ethics and employment practices to the following:

- Local school districts;
- Charter schools;
- Florida School for the Deaf and the Blind; and

¹³ According to DCF, responsibility for the early childhood resource and referral network and the Child Care Executive Partnership Act were transferred, by type 2 transfer, to the Florida Partnership for School Readiness under the Office of Early Learning of the Agency for Workforce Innovation in 2001. (Section 17, Ch. 2001-170, L.O.F.) Statute, however, was not modified to reflect this change in administration. James Cheatham, *DCF Staff Analysis And Economic Impact SB 1670* (February 13, 2008).

¹⁴ *Id.*

- Private schools that accept certain scholarship students.

The DOE must also provide access to specified employment-screening tools to authorized staff of these entities, as well as private VPK providers.

Section 8 provides that private VPK providers must do the following:

- Complete ethics training to be developed jointly by DCF, AWI, DOE;
- Disqualify employees who have been convicted of offenses identified in s. 435.04, F.S.;
- Assess the ability of prospective instructors and administrators to meet ethical standards by contacting former employers; and
- Screen prospective employees using educator-screening tools and DCF's database.

The bill further mandates that a private VPK provider may not enter into a confidentiality agreement with a terminated or dismissed employee whose termination was based on unethical conduct, and may not favorably recommend such employee for employment in another educational setting. This provision eliminates the possibility that unethical educators will be concealed or passed from one provider to another, unsuspecting provider.

The bill provides that AWI shall prohibit a provider who fails to comply with the bill's ethics requirements from accepting VPK funds for one year and until the provider complies.

Section 8 requires that an entity that accredits a VPK provider must (1) have written standards that meet or exceed the state's licensing requirements and (2) conduct at least one onsite visit to the provider before accreditation.

Sections 8, 9 and 10 allow private and public VPK providers to assign a substitute instructor who does not meet the VPK program instructor qualifications to temporarily replace a credentialed instructor. Substitute instructors must meet level 2 background screening requirements, and AWI must adopt rules governing the qualifications of substitute instructors and the circumstances and time limits for which substitute instructors may be used.

Section 11 amends s. 1002.69, F.S., to provide that kindergarten readiness screening include an assessment of the ability of a student to communicate in the English language.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

According to DCF, some current employees who have already been cleared by previous background screening may be disqualified and unable to work under the standards proposed by the bill.¹⁵

C. Government Sector Impact:

According to DCF, the bill will have a fiscal impact of \$270,514 in FY 2008-2009 and \$310,410 in 2009-2010. The department indicates that the addition of five new disqualifying offenses to the background screening requirements will require additional resources and will likely result in increased demand for disqualification exemption hearings and hearings under ch. 120, F.S.¹⁶

The department estimates that the cost for the development of a 2-hour online ethics training course is \$48,800 and for a 3-hour online course is \$55,300. The department expects that these costs can be absorbed by the existing child care regulation budget.¹⁷

For FY 2008-2009, CS/CS/CS/SB 1712 appropriates \$153,872 from the Educational Certification and Services Trust Fund to DOE and two positions in the Bureau of Professional Practices Services to implement the provisions of the bill. This bill contains some of the same provisions relating to DOE found in CS/CS/CS/SB 1712, and the fiscal impact may be comparable.

VI. Technical Deficiencies:

The department suggests that the requirement for rulemaking as to notification of employee termination is unclear as it relates to exempt child care facilities. The department has no substantive authority to oversee religious exempt facilities other than to ensure that employees of these facilities have been screened as provided in chapter 435, and so the department may not have authority to implement rules otherwise relating to the management of the employees of an exempt facility.¹⁸

¹⁵ James Cheatham, *DCF Staff Analysis and Economic Impact CS/CS/CS/SB 1712* (February 15, 2008). CS/CS/SB 1712 contains the same background screening and ethics training provisions found in CS/SB 1670.

¹⁶ James Cheatham, *DCF Staff Analysis and Economic Impact CS/SB 1670* (March 24, 2008).

¹⁷ *Id.*

¹⁸ *Id.*

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Children, Families and Elder Affairs on March 26, 2008:

Deletes one of the databases to which DOE is required to provide access for employment screening purposes. Clarifies provisions relating to the unenforceability of an agreement that conceals misconduct by a VPK instructor or administrator. Provides that kindergarten readiness screening must include an assessment of the ability of a student to communicate in the English language. Makes technical changes.

CS by Education Pre-K – 12 on March 19, 2008:

The CS for SB 1670:

- Restores current law requirements that a prekindergarten instructor be screened before employment;
- Retains current law with respect to the 5-year refingerprinting requirements as the 5-year check could otherwise not be accomplished for prekindergarten instructors whose prints were not retained;
- Retains the bar on exemptions from disqualifying offenses for prekindergarten instructors;
- Prohibits confidentiality agreements for VPK providers when an employee resigns or is terminated for unethical conduct;
- Adds disqualifying offenses for employment purposes of luring or enticing a child, unlawful sexual activity with a minor, voyeurism, video voyeurism, and delinquent acts that qualify or would qualify an individual for inclusion on the Registered Juvenile Sex Offender List;
- Requires additional pre-employment screening to include contacting previous employers; and
- Requires ethics training that is jointly developed by DCF, AWI, and DOE, on adopting policies for preventing and reporting suspected or actual misconduct by a prekindergarten instructor or administrator.

B. Amendments:

None.