

By the Committee on Children & Family Empowerment and
Representative Brennan

1 A bill to be entitled
2 An act relating to children; amending s.
3 402.302, F.S.; defining the terms "evening
4 child care" and "weekend child care"; providing
5 references to the Department of Children and
6 Family Services; amending s. 402.305, F.S.;
7 providing minimum standards for
8 staff-to-children ratio in a licensed child
9 care facility with children of mixed age
10 ranges; providing for minimum standards for
11 evening child care; amending s. 402.313, F.S.;
12 providing for establishment of minimum
13 standards for licensed family day care homes;
14 providing an effective date.

15

16 Be It Enacted by the Legislature of the State of Florida:

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18 Section 1. Section 402.302, Florida Statutes, 1996
19 Supplement, is amended to read:

20 402.302 Definitions.--

21 (1)~~(3)~~ "Child care" means the care, protection, and
22 supervision of a child, for a period of less than 24 hours a
23 day on a regular basis, which supplements parental care,
24 enrichment, and health supervision for the child, in
25 accordance with his or her individual needs, and for which a
26 payment, fee, or grant is made for care.

27 (2)~~(4)~~ "Child care facility" includes any child care
28 center or child care arrangement which provides child care for
29 more than five children unrelated to the operator and which
30 receives a payment, fee, or grant for any of the children

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1 receiving care, wherever operated, and whether or not operated
2 for profit. The following are not included:

3 (a) Public schools and nonpublic schools and their
4 integral programs, except as provided in s. 402.3025;

5 (b) Summer camps having children in full-time
6 residence;

7 (c) Summer day camps; and

8 (d) Bible schools normally conducted during vacation
9 periods.

10 (3)~~(8)~~ "Child care personnel" means all owners,
11 operators, employees, and volunteers working in a child care
12 facility. The term does not include persons who work in a
13 child care facility after hours when children are not present
14 or parents of children in Head Start. For purposes of
15 screening, the term includes any member, over the age of 12
16 years, of a child care facility operator's family, or person,
17 over the age of 12 years, residing with a child care facility
18 operator if the child care facility is located in or adjacent
19 to the home of the operator or if the family member of, or
20 person residing with, the child care facility operator has any
21 direct contact with the children in the facility during its
22 hours of operation. Members of the operator's family or
23 persons residing with the operator who are between the ages of
24 12 years and 18 years shall not be required to be
25 fingerprinted but shall be screened for delinquency records.
26 For purposes of screening, the term shall also include persons
27 who work in child care programs which provide care for
28 children 15 hours or more each week in public or nonpublic
29 schools, summer day camps, family day care homes, or those
30 programs otherwise exempted under s. 402.316. The term does
31 not include public or nonpublic school personnel who are

1 providing care during regular school hours, or after hours for
2 activities related to a school's program for grades
3 kindergarten through 12 as required under chapter 232. A
4 volunteer who assists on an intermittent basis for less than
5 40 hours per month is not included in the term "personnel" for
6 the purposes of screening and training, provided that the
7 volunteer is under direct and constant supervision by persons
8 who meet the personnel requirements of s.

9 402.305(2)~~402.305(1)~~. Students who observe and participate in
10 a child care facility as a part of their required coursework
11 shall not be considered child care personnel, provided such
12 observation and participation are on an intermittent basis and
13 the students are under direct and constant supervision of
14 child care personnel.

15 ~~(4)(1)~~ "Department" means the Department of Children
16 and Family Health and Rehabilitative Services.

17 ~~(5)(12)~~ "Drop-in child care" means child care provided
18 occasionally in a child care facility in a shopping mall or
19 business establishment where a child is in care for no more
20 than a 4-hour period and the parent remains on the premises of
21 the shopping mall or business establishment at all times.
22 Drop-in child care arrangements shall meet all requirements
23 for a child care facility unless specifically exempted.

24 (6) "Evening child care" means child care provided
25 during the evening hours and may encompass the hours of 6:00
26 p.m. to 7:00 a.m. to accommodate parents who work evenings and
27 late-night shifts.

28 ~~(7)(5)~~ "Family day care home" means an occupied
29 residence in which child care is regularly provided for
30 children from at least two unrelated families and which
31 receives a payment, fee, or grant for any of the children

1 receiving care, whether or not operated for profit. A family
2 day care home shall be allowed to provide care for one of the
3 following groups of children, which shall include those
4 children under 13 years of age who are related to the
5 caregiver:

6 (a) A maximum of four children from birth to 12 months
7 of age.

8 (b) A maximum of three children from birth to 12
9 months of age, and other children, for a maximum total of six
10 children.

11 (c) A maximum of six preschool children if all are
12 older than 12 months of age.

13 (d) A maximum of 10 children if no more than 5 are
14 preschool age and, of those 5, no more than 2 are under 12
15 months of age.

16 (8)~~(13)~~ "Indoor recreational facility" means an indoor
17 commercial facility which is established for the primary
18 purpose of entertaining children in a planned fitness
19 environment through equipment, games, and activities in
20 conjunction with food service and which provides child care
21 for a particular child no more than 4 hours on any one day. An
22 indoor recreational facility must be licensed as a child care
23 facility under s. 402.305, but is exempt from the minimum
24 outdoor-square-footage-per-child requirement specified in that
25 section, if the indoor recreational facility has, at a
26 minimum, 3,000 square feet of usable indoor floor space.

27 (9) "Local licensing agency" means any agency or
28 individual designated by the county to license child care
29 facilities.

30 (10)~~(6)~~ "Operator" means any onsite person ultimately
31 responsible for the overall operation of a child care

1 facility, whether or not he or she is the owner or
2 administrator of such facility.

3 (11)~~(7)~~ "Owner" means the person who is licensed to
4 operate the child care facility.

5 (12)~~(10)~~ "Screening" means the act of assessing the
6 background of child care personnel and includes, but is not
7 limited to, employment history checks, local criminal records
8 checks through local law enforcement agencies, fingerprinting
9 for all purposes and checks in this subsection, statewide
10 criminal records checks through the Department of Law
11 Enforcement, and federal criminal records checks through the
12 Federal Bureau of Investigation; except that screening for
13 volunteers included under the definition of personnel includes
14 only local criminal records checks through local law
15 enforcement agencies for current residence and residence
16 immediately prior to employment as a volunteer, if different,
17 and statewide criminal records correspondence checks through
18 the Department of Law Enforcement.

19 (13)~~(2)~~ "Secretary" means the Secretary of Children
20 and Family ~~the Department of Health and Rehabilitative~~
21 Services.

22 (14)~~(11)~~ "Substantial compliance" means that level of
23 adherence which is sufficient to safeguard the health, safety,
24 and well-being of all children under care. Substantial
25 compliance is greater than minimal adherence but not to the
26 level of absolute adherence. Where a violation or variation
27 is identified as the type which impacts, or can be reasonably
28 expected within 90 days to impact, the health, safety, or
29 well-being of a child, there is no substantial compliance.

30 (15) "Weekend child care" means child care provided
31 between the hours of 6 p.m. on Friday and 6 a.m. on Monday.

1 Section 2. Paragraph (a) of subsection (4) of section
2 402.305, Florida Statutes, 1996 Supplement, is amended,
3 present subsection (16) is renumbered as subsection (17), and
4 a new subsection (16) is added to that section, to read:
5 402.305 Licensing standards; child care facilities.--
6 (4) STAFF-TO-CHILDREN RATIO.--
7 (a) Minimum standards for the care of children in a
8 licensed child care facility as established by rule of the
9 department must include:
10 1. For children from birth through 1 year of age,
11 there must be one child care personnel for every four
12 children.
13 2. For children 1 year of age or older, but under 2
14 years of age, there must be one child care personnel for every
15 six children.
16 3. For children 2 years of age or older, but under 3
17 years of age, there must be one child care personnel for every
18 11 children.
19 4. For children 3 years of age or older, but under 4
20 years of age, there must be one child care personnel for every
21 15 children.
22 5. For children 4 years of age or older, but under 5
23 years of age, there must be one child care personnel for every
24 20 children.
25 6. For children 5 years of age or older, there must be
26 one child care personnel for every 25 children.
27 7. When children 2 years of age and older are in care,
28 the staff-to-children ratio shall be based on the age group
29 with the largest number of children within the group.
30 (16) EVENING AND WEEKEND CHILD CARE.--Minimum
31 standards shall be developed by the department to provide for

1 reasonable, affordable, and safe evening and weekend child
2 care. Each facility offering evening or weekend child care
3 must meet these minimum standards, regardless of the origin or
4 source of the fees used to operate the facility or the type of
5 children served by the facility. The department may modify by
6 rule the licensing standards contained in this section to
7 accommodate evening child care.

8 Section 3. Subsection (3) of section 402.313, Florida
9 Statutes, 1996 Supplement, is amended, and subsection (10) is
10 added to that section, to read:

11 402.313 Family day care homes.--

12 (3) Child care personnel in family day care homes
13 shall be subject to the applicable screening provisions
14 contained in ss. 402.305(2)~~402.305(1)~~and 402.3055. For
15 purposes of screening in family day care homes, the term
16 includes any member over the age of 12 years of a family day
17 care home operator's family, or persons over the age of 12
18 years residing with the operator in the family day care home.
19 Members of the operator's family, or persons residing with the
20 operator, who are between the ages of 12 years and 18 years
21 shall not be required to be fingerprinted, but shall be
22 screened for delinquency records.

23 (10) For those family day care homes that wish to be
24 licensed, the department shall by rule establish minimum
25 standards for all licensed family day care homes, which must
26 include, but need not be limited to, standards for personnel
27 training, physical facility, admissions, recordkeeping,
28 nutrition, discipline, and evening and weekend child care and
29 standards for enforcement of these standards.

30 Section 4. This act shall take effect July 1, 1997.

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