

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1554

SPONSOR: Children and Families Committee and Senator Lynn

SUBJECT: Child Care Homes & Facilities

DATE: April 9, 2003                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dowds	Whiddon	CF	Favorable/CS
2.	_____	_____	CP	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

Committee Substitute for Senate Bill 1554 amends s. 402.310, F.S., authorizing the Department of Children and Families to deny, suspend, or revoke the registration of family day care homes. Sections 402.313 and 402.3131, F.S., are amended to remove the administrative fine provisions for family day care homes and large family child care homes that conflict with the administrative fines permitted in s. 402.310, F.S. In addition, the minimum standards the department is authorized to establish for family day care homes under s. 402.313, F.S., is expanded to allow for the development of safety requirements.

This bill substantially amends sections 402.310, 402.313, and 402.3131 of the Florida Statutes.

**II. Present Situation:**

The intent of child care regulation in Florida, as in most states, is to protect the health, safety, and well-being of the children, as well as to promote their emotional and intellectual development and care. In Florida, child care centers, which provide child care to more than five children who are unrelated to the operator and for whom a payment is received for the care (s. 402.302, F.S.), are required to be licensed pursuant to the licensing standards set forth in s. 402.305, F.S., unless certain exemptions are met. In addition, family day care homes and large family child care homes are permitted to provide child care in Florida pursuant to separate child care regulatory provisions. The Department of Children and Families is responsible for the licensure and enforcement of licensure standards for child care centers, family day care homes, and large family child care homes (ss. 402.301 through 402.319, F.S.), unless a county has chosen to assume the child care licensing responsibility pursuant to s. 402.306, F.S.

Family day care homes are residences where child care is provided for between four and ten children, depending of their ages, from at least two unrelated families for a fee [s. 402.302(7), F.S.]. Section 402.313, F.S., requires that family day care homes be registered or, in some circumstances, licensed. Family day care homes must be licensed if county licensing ordinances require licensure, if the home is participating in the subsidized child care program (now the school readiness program), or if the board of county commissioners passes a resolution requiring licensure for family day care homes. The department has developed in rule minimum standards for licensure of family day care homes to include standards for staffing, training, immunization records, health, and enforcement, as well as reduced standards for evening care provided by municipalities and counties, in accordance with this section.

Family day care homes which are not required or do not choose to be licensed must register annually with the department pursuant to s. 402.313, F.S. Such registration requires that the following information be provided to the department: name of the operator and home, address of the home, number of children being served, a plan for a substitute caregiver in an emergency, proof that the criminal background and employment history check required by s. 402.302(13), F.S., was completed, proof that the required 30-hour training program was completed and competency test passed, and proof that the immunization records are maintained.

Large family child care homes are also residences where child care is provided for at least two unrelated families for a fee, but the number of children that may be cared for is permitted to total 12, depending on the ages of the children [s. 402.302(8), F.S.]. All large family child care homes must be licensed based on the requirements of the section, such as completion of a 40 hour training and standards as adopted in rule for staffing, immunization records maintenance, health, safety, square footage, and enforcement (s. 402.3131, F.S.). Chapter 65C-20 (F.A.C.) sets forth the licensing standards for both family day care homes and large family child care homes.

Enforcement is an important component in the child care regulatory process because it ensures that the child care facilities, family day care homes, and large family child care homes are complying with the licensing standards. The enforcement process begins with determining that the child care facility has complied with the licensing standards for the issuance of the child care, family day care home, or large family child care home license and continues with corrective action or sanctions to ensure any non-compliance is resolved. When violations to the licensing standards are identified, a continuum of enforcement actions is used. Sanctions are imposed using a progressive enforcement process that begins with a corrective action plan and ends with revocation of the provider's license. Specifically, s. 402.310, F.S., authorizes the department to deny, suspend, or revoke a license for the violations of the licensing standards and requirements as set forth in ss. 402.301 through 402.319, F.S., or to impose an administrative fine of up to \$100 per violation, per day or up to \$500 per violation, per day if the violation could cause death or serious injury. The procedures prescribed in ch. 120, F.S., are required to be used to determine if a license is to be denied, suspended or revoked or a fine imposed. Sections 402.313(1)(b), and 402.3131(1)(a), F.S., also authorize the department to impose an administrative fine of up to \$100 for family day care homes and up to \$1,000 for large family child care homes for failure to comply with the licensing standards.

The enforcement sanctions available in s. 402.310, F.S., are not available for registered family day care homes that do not comply with the registration requirements.

Section 402.313(1)(b), F.S., permits the imposition of an administrative fine of up to \$100 for failure to comply with registration requirements. However, the department has no authority to deny, revoke, or suspend a registration and, thus, close the operation of a family day care home when the violation of the registration requirements or other statutory provisions may warrant such action.

### **III. Effect of Proposed Changes:**

CS/SB 1554 authorizes the Department of Children and Families to deny, suspend, or revoke the registration of a family day care home and to include safety standards in the minimum licensing standards required of family day care homes. Specifically, the bill expands the department's authority in s. 402.310, F.S., to deny, suspend, or revoke a child care related license to also apply to a registration of a family day care home, thus providing the department with an additional enforcement strategy for ensuring family day care homes comply with the registration and statutory requirements for family day care homes. With the inclusion of family day care home registrations, the types of child care licensures which the department has authority to deny, revoke, or suspend are specifically delineated. In addition, the administrative fines of up to \$100 per violation per day provided for in s. 402.310, F.S., becomes available to the department for family day care homes. The determination of the appropriate disciplinary action to be taken and procedures required when imposing these sanctions are applied to the action taken on the registrants of family day care homes. Sections 402.313 and 402.3131, F.S., are amended to repeal the provisions that impose administrative fines on family day care homes and large family child care homes which conflict with the administrative fine permitted by s. 402.310, F.S. Further, s. 402.313, F.S., relating to minimum standards for licensure of family day care homes is amended to require the development of safety standards and to remove the stipulation that the reduced standards for evening child care applies only to municipalities and counties.

The bill will take effect upon becoming law.

### **IV. Constitutional Issues:**

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

None.

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

None.

#### **C. Trust Funds Restrictions:**

None.

### **V. Economic Impact and Fiscal Note:**

#### **A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Family day care homes will be required to adhere to additional standards relative to the safety of the homes which may have associated costs. However, safety standards are also likely to prevent injury to the children in the care of the family day care homes.

**C. Government Sector Impact:**

The Department of Children and Families reports that this bill has no fiscal impact.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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