

CHAMBER ACTION

1 The Health & Families Council recommends the following:

2  
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to child care; transferring, renumbering,  
7 and amending s. 402.3017, F.S.; revising requirements for  
8 the Teacher Education and Compensation Helps scholarship  
9 program; transferring authority for administration and  
10 rules from the Department of Children and Family Services  
11 to the Agency for Workforce Innovation; amending s.  
12 402.302, F.S.; redefining the term "screening";  
13 authorizing the screening of child care volunteers;  
14 amending s. 402.3055, F.S.; requiring an applicant, owner,  
15 or operator of a child care facility to sign an affidavit  
16 attesting to the accuracy of certain information;  
17 authorizing the Department of Children and Family Services  
18 to apply certain requirements for personnel in child care  
19 facilities to personnel in family day care homes and large  
20 family child care homes; amending s. 402.308, F.S.;  
21 requiring family day care homes that are required to be  
22 licensed and large family child care homes to have a  
23 license that is renewed annually; authorizing the

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24 Department of Children and Family Services to apply the  
25 specified procedures for administering a license to family  
26 day care homes and large family child care homes; amending  
27 s. 402.309, F.S.; authorizing the local licensing agency  
28 or the Department of Children and Family Services to issue  
29 a provisional license or registration to a child care  
30 facility, family day care home, or large family child care  
31 home; providing that a provisional license or registration  
32 may not be issued unless child care personnel are screened  
33 according to law; requiring the department to adopt rules  
34 for issuing, suspending, and revoking provisional licenses  
35 and registrations; amending s. 402.310, F.S.; providing  
36 that an increased administrative fine may be imposed in  
37 addition to or in lieu of other disciplinary actions;  
38 authorizing the department or local licensing agencies to  
39 convert a license or registration to probation status for  
40 a violation of certain laws and rules; authorizing the  
41 department or local licensing agencies to apply  
42 disciplinary actions to registered family day care homes;  
43 directing the department to adopt rules establishing  
44 grounds for imposing disciplinary actions for violations  
45 of certain laws and rules; directing the department to  
46 adopt rules to create a uniform system of procedures to  
47 use for disciplinary actions; creating s. 402.3105, F.S.;  
48 requiring the department to establish a database of  
49 information concerning violations, citations, and  
50 penalties imposed against child care facilities, family  
51 day care homes, and large family child care homes licensed

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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52 | by or registered with the department and local licensing  
 53 | agencies; requiring the department to consult with the  
 54 | State Technology Office; specifying database capabilities  
 55 | and the uses of information contained therein; providing  
 56 | that implementation is not contingent upon an  
 57 | appropriation; amending s. 402.313, F.S.; removing  
 58 | conflicting provisions regarding an administrative fine;  
 59 | requiring the adoption of a rule establishing minimum  
 60 | standards for safety; repealing s. 402.3131(1)(a), F.S.,  
 61 | relating to the authority of the department or local  
 62 | licensing agency to impose an administrative fine against  
 63 | a large family child care home; requiring the Office of  
 64 | Program Policy Analysis and Government Accountability to  
 65 | conduct a study of the Child Care Services Program Office  
 66 | of the Department of Children and Family Services and  
 67 | provide a report to the Governor and Legislature;  
 68 | providing an effective date.

70 | Be It Enacted by the Legislature of the State of Florida:

72 | Section 1. Section 402.3017, Florida Statutes, is  
 73 | transferred, renumbered as section 411.0103, Florida Statutes,  
 74 | and amended to read:

75 | 411.0103 ~~402.3017~~ Teacher Education and Compensation Helps  
 76 | (TEACH) scholarship program.--

77 | (1) The Legislature finds that the level of early child  
 78 | care teacher education and training is a key predictor for  
 79 | determining program quality. The Legislature also finds that low

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80 wages for child care workers prevent many from obtaining  
81 increased training and education and contribute to high turnover  
82 rates. The Legislature therefore intends to help fund a program  
83 which links teacher training and education to compensation and  
84 commitment to the field of early childhood education.

85 (2) The Agency for Workforce Innovation may ~~Department of~~  
86 ~~Children and Family Services is authorized to~~ contract for the  
87 administration of the Teacher Education and Compensation Helps  
88 (TEACH) scholarship program, which provides educational  
89 scholarships to caregivers and administrators of early childhood  
90 programs, family day care homes, and large family child care  
91 homes.

92 (3) The Agency for Workforce Innovation may ~~department~~  
93 ~~shall~~ adopt rules under ss. 120.536(1) and 120.54 as necessary  
94 to administer ~~implement~~ this section.

95 ~~(4) For the 2004-2005 fiscal year only, the Agency for~~  
96 ~~Workforce Innovation shall administer this section. This~~  
97 ~~subsection expires July 1, 2005.~~

98 Section 2. Subsection (13) of section 402.302, Florida  
99 Statutes, is amended to read:

100 402.302 Definitions.--

101 (13) "Screening" means the act of assessing the background  
102 of child care personnel and volunteers and includes, but is not  
103 limited to, employment history checks, local criminal records  
104 checks through local law enforcement agencies, fingerprinting  
105 for all purposes and checks in this subsection, statewide  
106 criminal records checks through the Department of Law  
107 Enforcement, and federal criminal records checks through the

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108 Federal Bureau of Investigation; ~~except that screening for~~  
 109 ~~volunteers included under the definition of personnel includes~~  
 110 ~~only local criminal records checks through local law enforcement~~  
 111 ~~agencies for current residence and residence immediately prior~~  
 112 ~~to employment as a volunteer, if different, and statewide~~  
 113 ~~criminal records correspondence checks through the Department of~~  
 114 ~~Law Enforcement.~~

115 Section 3. Section 402.3055, Florida Statutes, is amended  
 116 to read:

117 402.3055 Child care personnel requirements.--

118 (1) REQUIREMENTS FOR CHILD CARE PERSONNEL.--

119 (a) The department or local licensing agency shall require  
 120 that the application for a license to operate a child care  
 121 facility, family day care home, or large family child care home  
 122 license contain a question that specifically asks the applicant,  
 123 owner, or operator if he or she has ever had a license denied,  
 124 revoked, or suspended in any state or jurisdiction or has been  
 125 the subject of a disciplinary action or been fined while  
 126 employed in a child care facility, family day care home, or  
 127 large family child care home. The applicant, owner, or operator  
 128 shall sign an affidavit attesting attest to the accuracy of the  
 129 information requested under penalty of perjury.

130 1. If the applicant, owner, or operator admits that he or  
 131 she has been a party in such action, the department or local  
 132 licensing agency shall review the nature of the suspension,  
 133 revocation, disciplinary action, or fine before granting the  
 134 applicant a license to operate a child care facility, family day  
 135 care home, or large family child care home.

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136           2. If the department or local licensing agency determines  
 137 as a ~~the~~ result of the ~~such~~ review that it is not in the best  
 138 interest of the state or local jurisdiction for the applicant to  
 139 be licensed, a license shall not be granted.

140           (b) The employer of a child care facility, family day care  
 141 home, or large family child care home ~~employer~~ shall require  
 142 that the application for a child care personnel position contain  
 143 a question that specifically asks the applicant if he or she has  
 144 ever worked in a facility or home that has had a license denied,  
 145 revoked, or suspended in this or any other state ~~or jurisdiction~~  
 146 or if the applicant has been the subject of a disciplinary  
 147 action or been fined while he or she was employed in a child  
 148 care facility or home. The applicant shall attest to the  
 149 accuracy of the information requested under penalty of perjury.  
 150 If the applicant admits that he or she has been a party in such  
 151 action, the employer shall review the nature of the denial,  
 152 suspension, revocation, disciplinary action, or fine before the  
 153 applicant is hired.

154           (2) EXCLUSION FROM OWNING, OPERATING, OR BEING EMPLOYED BY  
 155 A CHILD CARE FACILITY OR OTHER CHILD CARE PROGRAM; HEARINGS  
 156 PROVIDED. --

157           (a) The department or local licensing agency shall deny,  
 158 suspend, or revoke a license or pursue other remedies provided  
 159 in s. 402.310, s. 402.312, or s. 402.319 in addition to or in  
 160 lieu of denial, suspension, or revocation for failure to comply  
 161 with this section. The disciplinary actions taken ~~determination~~  
 162 ~~to be made~~ by the department or the local licensing agency and

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163 the procedure for hearing for applicants and licensees shall be  
164 in accordance with s. 402.310.

165 (b) When the department or the local licensing agency has  
166 reasonable cause to believe that grounds for denial or  
167 termination of employment exist, it shall notify, in writing,  
168 the applicant, licensee, or other child care program and the  
169 child care personnel affected, stating the specific grounds  
170 indicating record which indicates noncompliance with the  
171 standards in s. 402.305(2).

172 (c) When the department is the agency initiating the  
173 allegations of statement regarding noncompliance, the procedures  
174 established for hearing under chapter 120 shall be available to  
175 the applicant, licensee, or other child care program and to the  
176 affected child care personnel, in order to present evidence  
177 relating either to the accuracy of the basis of exclusion or to  
178 the denial of an exemption from disqualification.

179 (d) When a local licensing agency is the agency initiating  
180 the allegations of statement regarding noncompliance of an  
181 employee with the standards contained in s. 402.305(2), the  
182 employee, applicant, licensee, or other child care program has  
183 15 days from receipt of the time of written notification of the  
184 agency's finding of noncompliance to make a written request for  
185 a hearing. If a written request for a hearing is not received in  
186 that time, the permanent employee, applicant, licensee, or other  
187 child care program is presumed to accept the finding of  
188 noncompliance.

189 (e) If a request for a hearing is made to the local  
190 licensing agency, a hearing shall be held within 30 days and

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191 shall be conducted by an individual designated by the county  
192 commission.

193 (f) An employee, applicant, licensee, or other child care  
194 program has ~~shall have~~ the right to appeal a finding of the  
195 local licensing agency to a representative of the department.  
196 Any required hearing shall be held in the county in which the  
197 permanent employee is employed. The hearing shall be conducted  
198 in accordance with ~~the provisions of~~ chapter 120.

199 (g) Refusal on the part of an applicant or licensee to  
200 dismiss child care personnel who have been found to be in  
201 noncompliance with personnel standards of s. 402.305(2) shall  
202 result in automatic denial or revocation of the license in  
203 addition to any other remedies pursued by the department or  
204 local licensing agency.

205 Section 4. Subsections (1) and (3) of section 402.308,  
206 Florida Statutes, are amended to read:

207 402.308 Issuance of license.--

208 (1) ANNUAL LICENSING.--Every child care facility, family  
209 day care home requiring licensure, or large family child care  
210 home in the state shall have a license that ~~which~~ shall be  
211 renewed annually.

212 (3) STATE ADMINISTRATION OF LICENSING.--In any county in  
213 which the department has the authority to issue licenses, the  
214 following procedures shall be applied:

215 (a) Application for a license or for a renewal of a  
216 license to operate a child care facility, family day care home,  
217 or large family child care home shall be made in the manner and  
218 on the forms prescribed by the department. The applicant's



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219 | social security number shall be included on the form submitted  
 220 | to the department. Pursuant to the federal Personal  
 221 | Responsibility and Work Opportunity Reconciliation Act of 1996,  
 222 | each applicant is required to provide his or her social security  
 223 | number in accordance with this section. Disclosure of social  
 224 | security numbers obtained through this requirement shall be  
 225 | limited to the purpose of administration of the Title IV-D  
 226 | program for child support enforcement.

227 |       (b) Before renewing ~~Prior to the renewal~~ of a license, the  
 228 | department shall reexamine the child care facility, family day  
 229 | care home, or large family child care home, including in that  
 230 | process the examination of the premises and those records of the  
 231 | facility or home as required under s. 402.305, to determine that  
 232 | minimum standards for licensing continue to be met.

233 |       (c) The department shall coordinate all inspections of  
 234 | child care facilities, family day care homes, and large family  
 235 | child care homes. A child care provider ~~facility~~ is not required  
 236 | to implement a recommendation of one agency which ~~that~~ is in  
 237 | conflict with a recommendation of another agency if the ~~such~~  
 238 | conflict arises from ~~due to~~ uncoordinated inspections. Any  
 239 | conflict in recommendations shall be resolved by the secretary  
 240 | of the department within 15 days after written notice that the  
 241 | ~~such~~ conflict exists.

242 |       (d) The department shall issue or renew a license upon  
 243 | receipt of the license fee and upon being satisfied that all  
 244 | standards required by ss. 402.301-402.319 have been met. A  
 245 | license may be issued if all the screening materials have been  
 246 | timely submitted; however, a license may not be issued or

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247 renewed if any of the child care personnel at the applicant  
248 facility or home have failed the screening required by ss.  
249 402.305(2) and 402.3055.

250 Section 5. Section 402.309, Florida Statutes, is amended  
251 to read:

252 402.309 Provisional license or registration.--

253 (1) The local licensing agency or the department,  
254 whichever is authorized to license child care facilities in a  
255 county, may issue a provisional license for child care  
256 facilities, family day care homes, or large family child care  
257 homes, or a provisional registration for family day care homes  
258 to applicants for an initial ~~a~~ license or registration or to  
259 licensees or registrants seeking a renewal who are unable to  
260 meet ~~conform to~~ all the standards provided for in ss. 402.301-  
261 402.319.

262 (2) A ~~No~~ provisional license or registration may not be  
263 issued unless the operator or owner makes adequate provisions  
264 for the health and safety of the child. A provisional license  
265 may be issued for a child care facility if all of the screening  
266 materials have been timely submitted. ~~however,~~ A provisional  
267 license or registration may not be issued unless the child care  
268 facility, family day care home, or large family child care home  
269 is in compliance with the requirements for screening of child  
270 care personnel in ss. 402.305, ~~and~~ 402.3055, 402.313, and  
271 402.3131, respectively.

272 (3) The provisional license or registration may ~~not shall~~  
273 ~~in no event~~ be issued for a period that exceeds ~~in excess of~~ 6  
274 months; however, it may be renewed one time for a period that

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275 | may not exceed ~~in excess of~~ 6 months under unusual circumstances  
276 | beyond the control of the applicant.

277 | (4) The provisional license or registration may be  
278 | suspended or revoked if periodic inspection or review ~~made~~ by  
279 | the local licensing agency or the department indicates that  
280 | insufficient progress has been made toward compliance.

281 | (5) The department shall adopt rules specifying the  
282 | conditions and procedures under which a provisional license or  
283 | registration may be issued, suspended, or revoked.

284 | Section 6. Section 402.310, Florida Statutes, is amended  
285 | to read:

286 | 402.310 Disciplinary actions; hearings upon denial,  
287 | suspension, or revocation of license or registration;  
288 | administrative fines.--

289 | (1)(a) The department or local licensing agency may  
290 | administer any of the following disciplinary sanctions for a  
291 | violation of any provision of ss. 402.301-402.319, or rules  
292 | adopted thereunder: ~~deny, suspend, or revoke a license or~~

293 | 1. Impose an administrative fine not to exceed \$100 per  
294 | violation, per day, ~~for the violation of any provision of ss.~~  
295 | ~~402.301-402.319 or rules adopted thereunder.~~ However, if where  
296 | the violation could or does cause death or serious harm, the  
297 | department or local licensing agency may impose an  
298 | administrative fine, not to exceed \$500 per violation per day,  
299 | in addition to or in lieu of any other disciplinary action  
300 | described in this section.

301 | 2. Convert a license or registration to probation status  
302 | and require the licensee or registrant to comply with the terms

303 of probation. A probation-status license or registration may not  
 304 be issued for a period that exceeds 6 months and the license or  
 305 registration may not be renewed. A probation-status license or  
 306 registration may be suspended or revoked if periodic inspection  
 307 by the department or local licensing agency finds that the  
 308 probation-status licensee or registrant is not in compliance  
 309 with the terms of probation or that the probation-status  
 310 licensee or registrant is not making sufficient progress towards  
 311 compliance with ss. 402.301-402.319.

312 3. Deny, suspend, or revoke a license or registration.

313 (b) In determining the appropriate disciplinary action to  
 314 be taken for a violation as provided in paragraph (a), the  
 315 following factors shall be considered:

316 1. The severity of the violation, including the  
 317 probability that death or serious harm to the health or safety  
 318 of any person will result or has resulted, the severity of the  
 319 actual or potential harm, and the extent to which the provisions  
 320 of ss. 402.301-402.319 have been violated.

321 2. Actions taken by the licensee or registrant to correct  
 322 the violation or to remedy complaints.

323 3. Any previous violations of the licensee or registrant.

324 (c) The department shall adopt rules to:

325 1. Establish the grounds under which the department may  
 326 deny, suspend, or revoke a license or registration or place a  
 327 licensee or registrant on probation status for violations of ss.  
 328 402.301-402.319.

329 2. Establish a uniform system of procedures to impose  
 330 disciplinary sanctions for violations of ss. 402.301-402-319.

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331 The uniform system of procedures must provide for the consistent  
332 application of disciplinary actions across districts and a  
333 progressively increasing level of penalties from predisciplinary  
334 actions, such as efforts to assist licensees or registrants to  
335 correct the statutory or regulatory violations, to severe  
336 disciplinary sanctions for actions that jeopardize the health  
337 and safety of children, such as for the deliberate misuse of  
338 medications. The department shall implement this subparagraph on  
339 January 1, 2006, and the implementation is not contingent upon a  
340 specific appropriation.

341 (d) The disciplinary sanctions set forth in this section  
342 apply to licensed child care facilities, licensed large family  
343 child care homes, and licensed or registered family day care  
344 homes.

345 (2) When the department has reasonable cause to believe  
346 that grounds exist for the denial, suspension, or revocation of  
347 a license or registration; the conversion of a license or  
348 registration to probation status; or the imposition of an  
349 administrative fine ~~exist~~, it shall determine the matter in  
350 accordance with procedures prescribed in chapter 120. When the  
351 local licensing agency has reasonable cause to believe that  
352 grounds exist for the denial, suspension, or revocation of a  
353 license or registration; the conversion of a license or  
354 registration to probation status; or the imposition of an  
355 administrative fine ~~exist~~, it shall notify the applicant,  
356 registrant, or licensee in writing, stating the grounds upon  
357 which the license or registration is being denied, suspended, or  
358 revoked or an administrative fine is being imposed. If the

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359 applicant, registrant, or licensee makes no written request for  
 360 a hearing to the local licensing agency within 15 days after  
 361 ~~from~~ receipt of the such notice, the license or registration  
 362 shall be deemed denied, suspended, or revoked; the license or  
 363 registration shall be converted to probation status; or an  
 364 administrative fine shall be imposed.

365 (3) If a request for a hearing is made to the local  
 366 licensing agency, a hearing shall be held within 30 days and  
 367 shall be conducted by an individual designated by the county  
 368 commission.

369 (4) An applicant, registrant, or licensee has ~~shall have~~  
 370 the right to appeal a decision of the local licensing agency to  
 371 a representative of the department. Any required hearing shall  
 372 be held in the county in which the child care facility, family  
 373 day care home, or large family child care home is being operated  
 374 or is to be established. The hearing shall be conducted in  
 375 accordance with ~~the provisions of~~ chapter 120.

376 Section 7. Section 402.3105, Florida Statutes, is created  
 377 to read:

378 402.3105 Central database on violations, citations, and  
 379 penalties imposed against child care facilities, family day care  
 380 homes, and large family child care homes.--

381 (1) The department, in consultation with the State  
 382 Technology Office, shall establish and maintain a central  
 383 database to record and compile all information from the service  
 384 districts and local licensing agencies concerning violations,  
 385 citations, and penalties imposed against child care facilities,  
 386 family day care homes, and large family child care homes

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387 regulated by or registered with the department or local  
388 licensing agency. The department shall develop the central  
389 database under chapter 282 and shall administer, operate, and  
390 maintain the database following the policies and procedures of  
391 the State Technology Office.

392 (2) The department shall retain information in the  
393 database in order to monitor and evaluate the consistency and  
394 effectiveness of the service districts' and local licensing  
395 agencies' investigations and the enforcement of compliance with  
396 licensing and registration requirements by child care  
397 facilities, family day care homes, and large family child care  
398 homes. The database must have the capability to produce  
399 statistical reports of patterns of violations, citations, and  
400 penalties, including the classes and types of violations, and  
401 any actions taken to suspend or revoke the license or  
402 registration of a child care facility, family day care home, or  
403 large family child care home.

404 (3) The central database shall be an informational  
405 resource for evaluating child care facilities, family day care  
406 homes, and large family child care homes for license or  
407 registration renewals but may not be used for employment  
408 screening. The database information is open to the public and is  
409 subject to chapter 119.

410 (4) The department shall implement this section beginning  
411 on July 1, 2005, and the implementation is not contingent upon a  
412 specific appropriation.

413 Section 8. Subsections (1) and (13) of section 402.313,  
414 Florida Statutes, are amended to read:

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415 402.313 Family day care homes.--

416 (1) Family day care homes shall be licensed under this act  
 417 if they are presently being licensed under an existing county  
 418 licensing ordinance, ~~if they are participating in the subsidized~~  
 419 ~~child care program,~~ or if the board of county commissioners  
 420 passes a resolution that family day care homes be licensed. ~~If~~  
 421 ~~no county authority exists for the licensing of a family day~~  
 422 ~~care home, the department shall have the authority to license~~  
 423 ~~family day care homes under contract for the purchase of service~~  
 424 ~~system in the subsidized child care program.~~

425 (a) If not subject to license, family day care homes shall  
 426 register annually with the department, providing the following  
 427 information:

- 428 1. The name and address of the home.
- 429 2. The name of the operator.
- 430 3. The number of children served.
- 431 4. Proof of a written plan to provide at least one other  
 432 competent adult to be available to substitute for the operator  
 433 in an emergency. This plan shall include the name, address, and  
 434 telephone number of the designated substitute.
- 435 5. Proof of screening and background checks.
- 436 6. Proof of successful completion of the 30-hour training  
 437 course, as evidenced by passage of a competency examination,  
 438 which shall include:
  - 439 a. State and local rules and regulations that govern child  
 440 care.
  - 441 b. Health, safety, and nutrition.
  - 442 c. Identifying and reporting child abuse and neglect.



443 d. Child development, including typical and atypical  
444 language development; and cognitive, motor, social, and self-  
445 help skills development.

446 e. Observation of developmental behaviors, including using  
447 a checklist or other similar observation tools and techniques to  
448 determine a child's developmental level.

449 f. Specialized areas, including early literacy and  
450 language development of children from birth to 5 years of age,  
451 as determined by the department, for owner-operators of family  
452 day care homes.

453 7. Proof that immunization records are kept current.

454 8. Proof of completion of the required continuing  
455 education units or clock hours.

456 ~~(b) The department or local licensing agency may impose an~~  
457 ~~administrative fine, not to exceed \$100, for failure to comply~~  
458 ~~with licensure or registration requirements.~~

459 (b)(e) A family day care home that is not required to be  
460 licensed under this subsection ~~participating in the subsidized~~  
461 ~~child care program~~ may volunteer to be licensed ~~under the~~  
462 ~~provisions of this act.~~

463 (c)(d) The department may provide technical assistance to  
464 counties and family day care home providers to enable counties  
465 and family day care providers to achieve compliance with family  
466 day care homes standards.

467 (13) The department shall adopt a rule establishing, ~~by~~  
468 ~~rule, establish~~ minimum standards for family day care homes that  
469 are required to be licensed by county licensing ordinance or  
470 county licensing resolution or that voluntarily choose to be

471 licensed. The standards should include requirements for  
 472 staffing, training, maintenance of immunization records, minimum  
 473 health and safety standards, reduced standards for the  
 474 regulation of child care during evening hours by municipalities  
 475 and counties, and enforcement of standards.

476 Section 9. Paragraph (a) of subsection (1) of section  
 477 402.3131, Florida Statutes, is repealed.

478 Section 10. The Office of Program Policy Analysis and  
 479 Government Accountability shall conduct a study of the  
 480 administrative and operational structure of the Child Care  
 481 Services Program Office of the Department of Children and Family  
 482 Services, including a review of all resources supporting the  
 483 program. The Office of Program Policy Analysis and Government  
 484 Accountability shall report its findings and make a  
 485 recommendation regarding the appropriate state agency to  
 486 administer child care regulation functions, to the President of  
 487 the Senate, the Speaker of the House of Representatives, and the  
 488 Governor by December 1, 2005.

489 Section 11. This act shall take effect July 1, 2005.