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1 A bill to be entitled
2 An act relating to licensing standards for child care
3 facilities; providing a short title; amending s.
4 402.305, F.S.; providing minimum licensing
5 requirements for window blinds and other window
6 coverings; requiring child care facilities to retrofit
7 window blinds, window coverings, pull cords, or inner
8 cords by a specified date in order to eliminate cords
9 that pose a risk of strangulation; providing a
10 definition; authorizing the Department of Children and
11 Family Services to provide certain information
12 regarding window blinds and window coverings;
13 authorizing the department to adopt rules; amending s.
14 402.302, F.S.; revising and providing definitions;
15 providing for certain household children to be
16 included in calculations regarding the capacity of
17 licensed family day care homes and large family child
18 care homes; providing conditions for supervision of
19 household children of operators of family day care
20 homes and large family child care homes; amending s.
21 402.318, F.S.; revising advertising requirements
22 applicable to child care facilities; providing
23 penalties; providing an effective date.

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

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27 Section 1. This act may be cited as the "John F. Serrano,
28 Rachel Lou Napier, and Alexandra Ali Safety and Accountability
29 Act."

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30 Section 2. Subsection (5) of section 402.305, Florida
31 Statutes, is amended to read:

32 402.305 Licensing standards; child care facilities.—

33 (5) PHYSICAL FACILITIES.—Minimum standards shall include
34 requirements for building conditions, indoor play space, outdoor
35 play space, napping space, bathroom facilities, food preparation
36 facilities, outdoor equipment, and indoor equipment.

37 (a) Because of the nature and duration of drop-in child
38 care, outdoor play space and outdoor equipment shall not be
39 required for licensure; however, if such play space and
40 equipment are provided, then the minimum standards shall apply
41 to drop-in child care. With respect to minimum standards for
42 physical facilities of a child care program for school-age
43 children which is operated in a public school facility, the
44 department shall adopt the State Uniform Building Code for
45 Public Educational Facilities Construction as the minimum
46 standards, regardless of the operator of the program. The
47 Legislature intends that if a child care program for school-age
48 children is operated in a public school, the program need not
49 conform to standards for physical facilities other than the
50 standards adopted by the Commissioner of Education.

51 (b) Minimum requirements for licensure of a child care
52 facility shall prohibit the use or installation of window blinds
53 or other window coverings that have long dangling cords, pull
54 cords, or inner cords capable of forming a loop and which
55 thereby pose a risk of strangulation to young children. Window
56 blinds and other window coverings that have been manufactured or
57 properly retrofitted in a manner that eliminates long dangling
58 cords, pull cords, inner cords, or the formation of loops that

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59 pose a risk of strangulation are not prohibited under this
60 subsection. Cordless window blinds are recommended and are in
61 compliance with this subsection.

62 1. When developing and periodically reviewing minimum
63 licensing requirements related to the safety and installation of
64 window blinds and other window coverings in child care
65 facilities, the department shall review and take into
66 consideration the recommendations of the United States Consumer
67 Product Safety Commission.

68 2. Child care facilities must properly retrofit existing
69 window blinds, window coverings, pull cords, or inner cords in
70 accordance with this paragraph by January 1, 2011. For purposes
71 of this subparagraph, "properly retrofit" means to modify in a
72 manner that eliminates long dangling cords or the formation of
73 inner or outer cord loops that pose a risk of child
74 strangulation.

75 3. The department may provide information regarding
76 reduced-cost or no-cost options for retrofitting or replacing
77 unsafe window blinds and window coverings.

78 4. The department shall adopt rules to administer these
79 requirements.

80 Section 3. Section 402.302, Florida Statutes, is amended to
81 read:

82 402.302 Definitions.—As used in this chapter, the term:

83 (1) "Child care" means the care, protection, and
84 supervision of a child, for a period of less than 24 hours a day
85 on a regular basis, which supplements parental care, enrichment,
86 and health supervision for the child, in accordance with his or
87 her individual needs, and for which a payment, fee, or grant is

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88 made for care.

89 (2) "Child care facility" includes any child care center or
90 child care arrangement which provides child care for more than
91 five children unrelated to the operator and which receives a
92 payment, fee, or grant for any of the children receiving care,
93 wherever operated, and whether or not operated for profit. The
94 following are not included:

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

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

98 (c) Summer day camps;

99 (d) Bible schools normally conducted during vacation
100 periods; and

101 (e) Operators of transient establishments, as defined in
102 chapter 509, which provide child care services solely for the
103 guests of their establishment or resort, provided that all child
104 care personnel of the establishment are screened according to
105 the level 2 screening requirements of chapter 435.

106 (3) "Child care personnel" means all owners, operators,
107 employees, and volunteers working in a child care facility. The
108 term does not include persons who work in a child care facility
109 after hours when children are not present or parents of children
110 in Head Start. For purposes of screening, the term includes any
111 member, over the age of 12 years, of a child care facility
112 operator's family, or person, over the age of 12 years, residing
113 with a child care facility operator if the child care facility
114 is located in or adjacent to the home of the operator or if the
115 family member of, or person residing with, the child care
116 facility operator has any direct contact with the children in

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117 the facility during its hours of operation. Members of the
118 operator's family or persons residing with the operator who are
119 between the ages of 12 years and 18 years shall not be required
120 to be fingerprinted but shall be screened for delinquency
121 records. For purposes of screening, the term shall also include
122 persons who work in child care programs which provide care for
123 children 15 hours or more each week in public or nonpublic
124 schools, summer day camps, family day care homes, or those
125 programs otherwise exempted under s. 402.316. The term does not
126 include public or nonpublic school personnel who are providing
127 care during regular school hours, or after hours for activities
128 related to a school's program for grades kindergarten through
129 12. A volunteer who assists on an intermittent basis for less
130 than 40 hours per month is not included in the term "personnel"
131 for the purposes of screening and training, provided that the
132 volunteer is under direct and constant supervision by persons
133 who meet the personnel requirements of s. 402.305(2). Students
134 who observe and participate in a child care facility as a part
135 of their required coursework shall not be considered child care
136 personnel, provided such observation and participation are on an
137 intermittent basis and the students are under direct and
138 constant supervision of child care personnel.

139 (4) "Department" means the Department of Children and
140 Family Services.

141 (5) "Drop-in child care" means child care provided
142 occasionally in a child care facility in a shopping mall or
143 business establishment where a child is in care for no more than
144 a 4-hour period and the parent remains on the premises of the
145 shopping mall or business establishment at all times. Drop-in

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146 child care arrangements shall meet all requirements for a child
147 care facility unless specifically exempted.

148 (6) "Evening child care" means child care provided during
149 the evening hours and may encompass the hours of 6:00 p.m. to
150 7:00 a.m. to accommodate parents who work evenings and late-
151 night shifts.

152 (7) "Family day care home" means an occupied residence in
153 which child care is regularly provided for children from at
154 least two unrelated families and which receives a payment, fee,
155 or grant for any of the children receiving care, whether or not
156 operated for profit. Household children under 13 years of age,
157 when on the premises of the family day care home or on a field
158 trip with children enrolled in child care, shall be included in
159 the overall capacity of the licensed home. A family day care
160 home shall be allowed to provide care for one of the following
161 groups of children, which shall include household ~~those~~ children
162 under 13 years of age ~~who are related to the caregiver:~~

163 (a) A maximum of four children from birth to 12 months of
164 age.

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

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

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

172 (8) "Household children" means children who are related by
173 blood, marriage, or legal adoption to, or who are the legal
174 wards of, the family day care home operator, the large family

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175 child care home operator, or an adult household member who
176 permanently or temporarily resides in the home. Supervision of
177 the operator's household children shall be left to the
178 discretion of the operator unless those children receive
179 subsidized child care to be in the home.

180 (9)~~(8)~~ "Large family child care home" means an occupied
181 residence in which child care is regularly provided for children
182 from at least two unrelated families, which receives a payment,
183 fee, or grant for any of the children receiving care, whether or
184 not operated for profit, and which has at least two full-time
185 child care personnel on the premises during the hours of
186 operation. One of the two full-time child care personnel must be
187 the owner or occupant of the residence. A large family child
188 care home must first have operated as a licensed family day care
189 home for 2 years, with an operator who has had a child
190 development associate credential or its equivalent for 1 year,
191 before seeking licensure as a large family child care home.

192 Household children under 13 years of age, when on the premises
193 of the large family child care home or on a field trip with
194 children enrolled in child care, shall be included in the
195 overall capacity of the licensed home. A large family child care
196 home shall be allowed to provide care for one of the following
197 groups of children, which shall include household ~~those~~ children
198 under 13 years of age ~~who are related to the caregiver:~~

199 (a) A maximum of 8 children from birth to 24 months of age.

200 (b) A maximum of 12 children, with no more than 4 children
201 under 24 months of age.

202 (10)~~(9)~~ "Indoor recreational facility" means an indoor
203 commercial facility which is established for the primary purpose

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204 of entertaining children in a planned fitness environment
205 through equipment, games, and activities in conjunction with
206 food service and which provides child care for a particular
207 child no more than 4 hours on any one day. An indoor
208 recreational facility must be licensed as a child care facility
209 under s. 402.305, but is exempt from the minimum outdoor-square-
210 footage-per-child requirement specified in that section, if the
211 indoor recreational facility has, at a minimum, 3,000 square
212 feet of usable indoor floor space.

213 (11)~~(10)~~ "Local licensing agency" means any agency or
214 individual designated by the county to license child care
215 facilities.

216 (12)~~(11)~~ "Operator" means any onsite person ultimately
217 responsible for the overall operation of a child care facility,
218 whether or not he or she is the owner or administrator of such
219 facility.

220 (13)~~(12)~~ "Owner" means the person who is licensed to
221 operate the child care facility.

222 (14)~~(13)~~ "Screening" means the act of assessing the
223 background of child care personnel and volunteers and includes,
224 but is not limited to, employment history checks, local criminal
225 records checks through local law enforcement agencies,
226 fingerprinting for all purposes and checks in this subsection,
227 statewide criminal records checks through the Department of Law
228 Enforcement, and federal criminal records checks through the
229 Federal Bureau of Investigation.

230 (15)~~(14)~~ "Secretary" means the Secretary of Children and
231 Family Services.

232 (16)~~(15)~~ "Substantial compliance" means that level of

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233 adherence which is sufficient to safeguard the health, safety,
234 and well-being of all children under care. Substantial
235 compliance is greater than minimal adherence but not to the
236 level of absolute adherence. Where a violation or variation is
237 identified as the type which impacts, or can be reasonably
238 expected within 90 days to impact, the health, safety, or well-
239 being of a child, there is no substantial compliance.

240 ~~(17)(16)~~ "Weekend child care" means child care provided
241 between the hours of 6 p.m. on Friday and 6 a.m. on Monday.

242 Section 4. Section 402.318, Florida Statutes, is amended to
243 read:

244 402.318 Advertisement.—No person, as defined in s. 1.01(3),
245 shall advertise or publish an advertisement for a child care
246 facility, family day care home, or large family child care home
247 without including within such advertisement the state or local
248 agency license number or registration number of such facility or
249 home. Violation of this section is a misdemeanor of the first
250 degree, punishable as provided in s. 775.082 or s. 775.083.

251 Section 5. This act shall take effect July 1, 2010.