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LEGISLATIVE ACTION

Senate

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House

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Floor: 1/AD/3R

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04/29/2010 03:30 PM

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Senator Justice moved the following:

**Senate Amendment (with title amendment)**

Delete lines 121 - 180

and insert:

Section 2. Section 402.302, Florida Statutes, is amended to read:

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

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



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14 (2) "Child care facility" includes any child care center or  
15 child care arrangement which provides child care for more than  
16 five children unrelated to the operator and which receives a  
17 payment, fee, or grant for any of the children receiving care,  
18 wherever operated, and whether or not operated for profit. The  
19 following are not included:

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

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

23 (c) Summer day camps;

24 (d) Bible schools normally conducted during vacation  
25 periods; and

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

31 (3) "Child care personnel" means all owners, operators,  
32 employees, and volunteers working in a child care facility. The  
33 term does not include persons who work in a child care facility  
34 after hours when children are not present or parents of children  
35 in Head Start. For purposes of screening, the term includes any  
36 member, over the age of 12 years, of a child care facility  
37 operator's family, or person, over the age of 12 years, residing  
38 with a child care facility operator if the child care facility  
39 is located in or adjacent to the home of the operator or if the  
40 family member of, or person residing with, the child care  
41 facility operator has any direct contact with the children in  
42 the facility during its hours of operation. Members of the



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43 operator's family or persons residing with the operator who are  
44 between the ages of 12 years and 18 years shall not be required  
45 to be fingerprinted but shall be screened for delinquency  
46 records. For purposes of screening, the term shall also include  
47 persons who work in child care programs which provide care for  
48 children 15 hours or more each week in public or nonpublic  
49 schools, summer day camps, family day care homes, or those  
50 programs otherwise exempted under s. 402.316. The term does not  
51 include public or nonpublic school personnel who are providing  
52 care during regular school hours, or after hours for activities  
53 related to a school's program for grades kindergarten through  
54 12. A volunteer who assists on an intermittent basis for less  
55 than 40 hours per month is not included in the term "personnel"  
56 for the purposes of screening and training, provided that the  
57 volunteer is under direct and constant supervision by persons  
58 who meet the personnel requirements of s. 402.305(2). Students  
59 who observe and participate in a child care facility as a part  
60 of their required coursework shall not be considered child care  
61 personnel, provided such observation and participation are on an  
62 intermittent basis and the students are under direct and  
63 constant supervision of child care personnel.

64 (4) "Department" means the Department of Children and  
65 Family Services.

66 (5) "Drop-in child care" means child care provided  
67 occasionally in a child care facility in a shopping mall or  
68 business establishment where a child is in care for no more than  
69 a 4-hour period and the parent remains on the premises of the  
70 shopping mall or business establishment at all times. Drop-in  
71 child care arrangements shall meet all requirements for a child



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72 care facility unless specifically exempted.

73 (6) "Evening child care" means child care provided during  
74 the evening hours and may encompass the hours of 6:00 p.m. to  
75 7:00 a.m. to accommodate parents who work evenings and late-  
76 night shifts.

77 (7) "Family day care home" means an occupied residence in  
78 which child care is regularly provided for children from at  
79 least two unrelated families and which receives a payment, fee,  
80 or grant for any of the children receiving care, whether or not  
81 operated for profit. Household children under 13 years of age,  
82 when on the premises of the family day care home or on a field  
83 trip with children enrolled in child care, shall be included in  
84 the overall capacity of the licensed home. A family day care  
85 home shall be allowed to provide care for one of the following  
86 groups of children, which shall include household ~~those~~ children  
87 under 13 years of age ~~who are related to the caregiver:~~

88 (a) A maximum of four children from birth to 12 months of  
89 age.

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

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

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

97 (8) "Household children" means children who are related by  
98 blood, marriage, or legal adoption to, or who are the legal  
99 wards of, the family day care home operator, the large family  
100 child care home operator, or an adult household member who



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101 permanently or temporarily resides in the home. Supervision of  
102 the operator's household children shall be left to the  
103 discretion of the operator unless those children receive  
104 subsidized child care to be in the home.

105 (9)~~(8)~~ "Large family child care home" means an occupied  
106 residence in which child care is regularly provided for children  
107 from at least two unrelated families, which receives a payment,  
108 fee, or grant for any of the children receiving care, whether or  
109 not operated for profit, and which has at least two full-time  
110 child care personnel on the premises during the hours of  
111 operation. One of the two full-time child care personnel must be  
112 the owner or occupant of the residence. A large family child  
113 care home must first have operated as a licensed family day care  
114 home for 2 years, with an operator who has had a child  
115 development associate credential or its equivalent for 1 year,  
116 before seeking licensure as a large family child care home.

117 Household children under 13 years of age, when on the premises  
118 of the large family child care home or on a field trip with  
119 children enrolled in child care, shall be included in the  
120 overall capacity of the licensed home. A large family child care  
121 home shall be allowed to provide care for one of the following  
122 groups of children, which shall include household ~~those~~ children  
123 under 13 years of age ~~who are related to the caregiver:~~

- 124 (a) A maximum of 8 children from birth to 24 months of age.  
125 (b) A maximum of 12 children, with no more than 4 children  
126 under 24 months of age.

127 (10)~~(9)~~ "Indoor recreational facility" means an indoor  
128 commercial facility which is established for the primary purpose  
129 of entertaining children in a planned fitness environment



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130 through equipment, games, and activities in conjunction with  
131 food service and which provides child care for a particular  
132 child no more than 4 hours on any one day. An indoor  
133 recreational facility must be licensed as a child care facility  
134 under s. 402.305, but is exempt from the minimum outdoor-square-  
135 footage-per-child requirement specified in that section, if the  
136 indoor recreational facility has, at a minimum, 3,000 square  
137 feet of usable indoor floor space.

138 (11)~~(10)~~ "Local licensing agency" means any agency or  
139 individual designated by the county to license child care  
140 facilities.

141 (12)~~(11)~~ "Operator" means any onsite person ultimately  
142 responsible for the overall operation of a child care facility,  
143 whether or not he or she is the owner or administrator of such  
144 facility.

145 (13)~~(12)~~ "Owner" means the person who is licensed to  
146 operate the child care facility.

147 (14)~~(13)~~ "Screening" means the act of assessing the  
148 background of child care personnel and volunteers and includes,  
149 but is not limited to, employment history checks, local criminal  
150 records checks through local law enforcement agencies,  
151 fingerprinting for all purposes and checks in this subsection,  
152 statewide criminal records checks through the Department of Law  
153 Enforcement, and federal criminal records checks through the  
154 Federal Bureau of Investigation.

155 (15)~~(14)~~ "Secretary" means the Secretary of Children and  
156 Family Services.

157 (16)~~(15)~~ "Substantial compliance" means that level of  
158 adherence which is sufficient to safeguard the health, safety,



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159 and well-being of all children under care. Substantial  
160 compliance is greater than minimal adherence but not to the  
161 level of absolute adherence. Where a violation or variation is  
162 identified as the type which impacts, or can be reasonably  
163 expected within 90 days to impact, the health, safety, or well-  
164 being of a child, there is no substantial compliance.

165 ~~(17)~~~~(16)~~ "Weekend child care" means child care provided  
166 between the hours of 6 p.m. on Friday and 6 a.m. on Monday.

167 Section 3. Paragraphs (c) and (f) of subsection (2) and  
168 subsection (3) of section 402.305, Florida Statutes, are  
169 amended, and paragraph (g) is added to subsection (2) of that  
170 section, to read:

171 402.305 Licensing standards; child care facilities.—

172 (2) PERSONNEL.—Minimum standards for child care personnel  
173 shall include minimum requirements as to:

174 (c) Minimum age requirements. The ~~Such~~ minimum standards  
175 must ~~shall~~ prohibit a person under the age of 21 from being the  
176 operator of a child care facility and a person under the age of  
177 18 ~~16~~ from being employed at such facility unless he or she ~~such~~  
178 ~~person~~ is under direct and constant supervision of screened and  
179 trained staff who are 18 years of age or older and he or she is  
180 not counted for the purposes of calculating ~~computing~~ the staff-  
181 to-child ~~personnel-to-child~~ ratio. The standards established for  
182 before-school and after-school care pursuant to paragraph (1)(c)  
183 must address minimum age requirements.

184 (f) ~~By January 1, 2000,~~ A credential for child care  
185 facility directors. ~~By January 1, 2004,~~ The credential is the  
186 ~~shall be a~~ required minimum standard for licensing child care  
187 facility directors.



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188 (g) Minimum education standards for child care personnel.  
189 Minimum education standards shall prohibit persons who have not  
190 obtained a high school diploma or high school equivalency  
191 diploma under s. 1003.435 from being employed as child care  
192 personnel unless such a person is:

193 1. Under the direct and constant supervision of screened  
194 and trained staff and is not counted for purposes of calculating  
195 the staff-to-child ratio;

196 2. Not serving in an instructional position and is not  
197 counted for purposes of calculating the staff-to-child ratio; or

198 3. Employed in an instructional position on July 1, 2010,  
199 and has 10 or more continuous years of documented experience  
200 working with children in a child care setting or in a public  
201 school.

202  
203 Those child care personnel who are employed by a child care  
204 facility on July 1, 2010, who do not possess the minimum  
205 educational requirements set forth in this paragraph and who are  
206 not exempt from the requirements of this paragraph must complete  
207 the educational requirements by July 1, 2011. Persons who do not  
208 complete the appropriate educational requirements are prohibited  
209 from employment as child care personnel until such time as they  
210 are in compliance with this paragraph.

211 (3) MINIMUM STAFF CREDENTIALS.—If a facility operates for 8  
212 or more hours per week ~~By July 1, 1996,~~ for every 20 children in  
213 the a licensed child care facility, beginning with the first  
214 child if the facility operates 8 hours or more per week, one of  
215 the child care personnel in the facility must have:

216 (a) A current child development associate credential;





217 (b) A current child care professional credential, unless  
218 the department determines that such child care professional  
219 credential is not equivalent to or greater than a child  
220 development associate credential; or

221 (c) A current credential that is equivalent to or greater  
222 than the credential required in paragraph (a) or paragraph (b).  
223

224 The department shall establish by rule those hours of operation,  
225 such as during rest periods and transitional periods, when this  
226 subsection does not apply.

227 Section 4. Section 402.318, Florida Statutes, is amended to  
228 read:

229 402.318 Advertisement.—No person, as defined in s. 1.01(3),  
230 shall advertise or publish an advertisement for a child care  
231 facility, family day care home, or large family child care home  
232 without including within such advertisement the state or local  
233 agency license number or registration number of such facility or  
234 home. Violation of this section is a misdemeanor of the first  
235 degree, punishable as provided in s. 775.082 or s. 775.083.  
236

237 ===== T I T L E A M E N D M E N T =====

238 And the title is amended as follows:

239 Delete lines 21 - 31

240 and insert:

241 from the department; amending s. 402.302, F.S.;

242 revising and providing definitions; providing for

243 certain household children to be included in

244 calculations regarding the capacity of licensed family

245 day care homes and large family child care homes;



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246 providing conditions for supervision of household  
247 children of operators of family day care homes and  
248 large family child care homes; amending s. 402.305,  
249 F.S.; prohibiting a person under the age of 18 from  
250 being the operator of a child care facility; requiring  
251 the department to address minimum age requirements for  
252 before-school and after-school care; providing  
253 exceptions; stating the minimum educational standards  
254 for child care facility employees; providing  
255 exceptions; requiring employees who do not meet the  
256 minimum educational standards by a specified date to  
257 do so within 1 year; requiring child care staff to  
258 possess specified credentials; amending s. 402.318,  
259 F.S.; revising advertising requirements applicable to  
260 child care facilities; providing penalties; reenacting  
261 s.