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1 A bill to be entitled
 2 An act relating to child care facilities; amending s.
 3 402.302, F.S.; revising and providing definitions;
 4 providing for certain household children to be included in
 5 calculations regarding the capacity of licensed family day
 6 care homes and large family child care homes; providing
 7 conditions for supervision of household children of
 8 operators of family day care homes and large family child
 9 care homes; amending s. 402.318, F.S.; requiring the
 10 Department of Children and Family Services or the local
 11 licensing agency to report violations of certain
 12 advertising requirements applicable to child care
 13 facilities to the state attorney's office; revising such
 14 advertising requirements; providing penalties; providing
 15 an effective date.

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

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

21 402.302 Definitions.—As used in this chapter, the term:

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

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28 (2) "Child care facility" includes any child care center
29 or child care arrangement which provides child care for more
30 than five children unrelated to the operator and which receives
31 a payment, fee, or grant for any of the children receiving care,
32 wherever operated, and whether or not operated for profit. The
33 following are not included:

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

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

37 (c) Summer day camps;

38 (d) Bible schools normally conducted during vacation
39 periods; and

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

45 (3) "Child care personnel" means all owners, operators,
46 employees, and volunteers working in a child care facility. The
47 term does not include persons who work in a child care facility
48 after hours when children are not present or parents of children
49 in Head Start. For purposes of screening, the term includes any
50 member, over the age of 12 years, of a child care facility
51 operator's family, or person, over the age of 12 years, residing
52 with a child care facility operator if the child care facility
53 is located in or adjacent to the home of the operator or if the
54 family member of, or person residing with, the child care
55 facility operator has any direct contact with the children in

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

78 | (4) "Department" means the Department of Children and
79 | Family Services.

80 | (5) "Drop-in child care" means child care provided
81 | occasionally in a child care facility in a shopping mall or
82 | business establishment where a child is in care for no more than
83 | a 4-hour period and the parent remains on the premises of the

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84 shopping mall or business establishment at all times. Drop-in
 85 child care arrangements shall meet all requirements for a child
 86 care facility unless specifically exempted.

87 (6) "Evening child care" means child care provided during
 88 the evening hours and may encompass the hours of 6:00 p.m. to
 89 7:00 a.m. to accommodate parents who work evenings and late-
 90 night shifts.

91 (7) "Family day care home" means an occupied residence in
 92 which child care is regularly provided for children from at
 93 least two unrelated families and which receives a payment, fee,
 94 or grant for any of the children receiving care, whether or not
 95 operated for profit. A family day care home shall be allowed to
 96 provide care for one of the following groups of children, which
 97 shall include household ~~those~~ children under 13 years of age ~~who~~
 98 ~~are related to the caregiver:~~

99 (a) A maximum of four children from birth to 12 months of
 100 age.

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

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

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

108
 109 Household children under 13 years of age, whether on the
 110 premises of the family day care home or on a field trip with

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111 children enrolled in child care, shall be included in the
 112 overall capacity of the licensed home.

113 (8) "Household children" means children who are related by
 114 blood, marriage, or legal adoption to, or who are the legal
 115 wards of, an adult household member who meets the level 2
 116 screening requirements as provided in s. 435.04. Supervision of
 117 the operator's household children shall be left to the
 118 discretion of the operator unless those children receive
 119 subsidized child care to be in the home.

120 (9)~~(8)~~ "Large family child care home" means an occupied
 121 residence in which child care is regularly provided for children
 122 from at least two unrelated families, which receives a payment,
 123 fee, or grant for any of the children receiving care, whether or
 124 not operated for profit, and which has at least two full-time
 125 child care personnel on the premises during the hours of
 126 operation. One of the two full-time child care personnel must be
 127 the owner or occupant of the residence. A large family child
 128 care home must first have operated as a licensed family day care
 129 home for 2 years, with an operator who has had a child
 130 development associate credential or its equivalent for 1 year,
 131 before seeking licensure as a large family child care home. A
 132 large family child care home shall be allowed to provide care
 133 for one of the following groups of children, which shall include
 134 household ~~these~~ children under 13 years of age ~~who are related~~
 135 ~~to the caregiver:~~

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

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

140

141 Household children under 13 years of age, whether on the
142 premises of the large family child care home or on a field trip
143 with children enrolled in child care, shall be included in the
144 overall capacity of the licensed home.

145 (10)~~(9)~~ "Indoor recreational facility" means an indoor
146 commercial facility which is established for the primary purpose
147 of entertaining children in a planned fitness environment
148 through equipment, games, and activities in conjunction with
149 food service and which provides child care for a particular
150 child no more than 4 hours on any one day. An indoor
151 recreational facility must be licensed as a child care facility
152 under s. 402.305, but is exempt from the minimum outdoor-square-
153 footage-per-child requirement specified in that section, if the
154 indoor recreational facility has, at a minimum, 3,000 square
155 feet of usable indoor floor space.

156 (11)~~(10)~~ "Local licensing agency" means any agency or
157 individual designated by the county to license child care
158 facilities.

159 (12)~~(11)~~ "Operator" means any onsite person ultimately
160 responsible for the overall operation of a child care facility,
161 whether or not he or she is the owner or administrator of such
162 facility.

163 (13)~~(12)~~ "Owner" means the person who is licensed to
164 operate the child care facility.

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165 ~~(14)~~~~(13)~~ "Screening" means the act of assessing the
 166 background of child care personnel and volunteers and includes,
 167 but is not limited to, employment history checks, local criminal
 168 records checks through local law enforcement agencies,
 169 fingerprinting for all purposes and checks in this subsection,
 170 statewide criminal records checks through the Department of Law
 171 Enforcement, and federal criminal records checks through the
 172 Federal Bureau of Investigation.

173 ~~(15)~~~~(14)~~ "Secretary" means the Secretary of Children and
 174 Family Services.

175 ~~(16)~~~~(15)~~ "Substantial compliance" means that level of
 176 adherence which is sufficient to safeguard the health, safety,
 177 and well-being of all children under care. Substantial
 178 compliance is greater than minimal adherence but not to the
 179 level of absolute adherence. Where a violation or variation is
 180 identified as the type which impacts, or can be reasonably
 181 expected within 90 days to impact, the health, safety, or well-
 182 being of a child, there is no substantial compliance.

183 ~~(17)~~~~(16)~~ "Weekend child care" means child care provided
 184 between the hours of 6 p.m. on Friday and 6 a.m. on Monday.

185 Section 2. Section 402.318, Florida Statutes, is amended
 186 to read:

187 402.318 Advertisement.—No person, as defined in s.
 188 1.01(3), shall advertise or publish an advertisement for a child
 189 care facility, family day care home, or large family child care
 190 home without including within such advertisement the state or
 191 local agency license number of such facility or home. The
 192 department or local licensing agency shall report any person

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193 | that violates this section to the state attorney's office in the
194 | appropriate judicial circuit. Violation of this section is a
195 | misdemeanor of the first degree, punishable as provided in s.
196 | 775.082 or s. 775.083.

197 | Section 3. This act shall take effect July 1, 2010.