

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.; revising
 10 advertising requirements applicable to child care
 11 facilities; providing penalties; providing an effective
 12 date.

13
 14 Be It Enacted by the Legislature of the State of Florida:

15
 16 Section 1. Section 402.302, Florida Statutes, is amended
 17 to read:

18 402.302 Definitions.—As used in this chapter, the term:

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

25 (2) "Child care facility" includes any child care center
 26 or child care arrangement which provides child care for more
 27 than five children unrelated to the operator and which receives
 28 a payment, fee, or grant for any of the children receiving care,

29 | wherever operated, and whether or not operated for profit. The
30 | following are not included:

- 31 | (a) Public schools and nonpublic schools and their
32 | integral programs, except as provided in s. 402.3025;
- 33 | (b) Summer camps having children in full-time residence;
- 34 | (c) Summer day camps;
- 35 | (d) Bible schools normally conducted during vacation
36 | periods; and
- 37 | (e) Operators of transient establishments, as defined in
38 | chapter 509, which provide child care services solely for the
39 | guests of their establishment or resort, provided that all child
40 | care personnel of the establishment are screened according to
41 | the level 2 screening requirements of chapter 435.
- 42 | (3) "Child care personnel" means all owners, operators,
43 | employees, and volunteers working in a child care facility. The
44 | term does not include persons who work in a child care facility
45 | after hours when children are not present or parents of children
46 | in Head Start. For purposes of screening, the term includes any
47 | member, over the age of 12 years, of a child care facility
48 | operator's family, or person, over the age of 12 years, residing
49 | with a child care facility operator if the child care facility
50 | is located in or adjacent to the home of the operator or if the
51 | family member of, or person residing with, the child care
52 | facility operator has any direct contact with the children in
53 | the facility during its hours of operation. Members of the
54 | operator's family or persons residing with the operator who are
55 | between the ages of 12 years and 18 years shall not be required
56 | to be fingerprinted but shall be screened for delinquency

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

75 (4) "Department" means the Department of Children and
76 Family Services.

77 (5) "Drop-in child care" means child care provided
78 occasionally in a child care facility in a shopping mall or
79 business establishment where a child is in care for no more than
80 a 4-hour period and the parent remains on the premises of the
81 shopping mall or business establishment at all times. Drop-in
82 child care arrangements shall meet all requirements for a child
83 care facility unless specifically exempted.

84 (6) "Evening child care" means child care provided during
 85 the evening hours and may encompass the hours of 6:00 p.m. to
 86 7:00 a.m. to accommodate parents who work evenings and late-
 87 night shifts.

88 (7) "Family day care home" means an occupied residence in
 89 which child care is regularly provided for children from at
 90 least two unrelated families and which receives a payment, fee,
 91 or grant for any of the children receiving care, whether or not
 92 operated for profit. Household children under 13 years of age,
 93 when on the premises of the family day care home or on a field
 94 trip with children enrolled in child care, shall be included in
 95 the overall capacity of the licensed home. A family day care
 96 home shall be allowed to provide care for one of the following
 97 groups of children, which shall include household ~~these~~ children
 98 under 13 years of age ~~who 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 (8) "Household children" means children who are related by
 109 blood, marriage, or legal adoption to, or who are the legal
 110 wards of, the family day care home operator, the large family
 111 child care home operator, or an adult household member who

112 permanently or temporarily resides in the home. Supervision of
 113 the operator's household children shall be left to the
 114 discretion of the operator unless those children receive
 115 subsidized child care to be in the home.

116 (9)~~(8)~~ "Large family child care home" means an occupied
 117 residence in which child care is regularly provided for children
 118 from at least two unrelated families, which receives a payment,
 119 fee, or grant for any of the children receiving care, whether or
 120 not operated for profit, and which has at least two full-time
 121 child care personnel on the premises during the hours of
 122 operation. One of the two full-time child care personnel must be
 123 the owner or occupant of the residence. A large family child
 124 care home must first have operated as a licensed family day care
 125 home for 2 years, with an operator who has had a child
 126 development associate credential or its equivalent for 1 year,
 127 before seeking licensure as a large family child care home.

128 Household children under 13 years of age, when on the premises
 129 of the large family child care home or on a field trip with
 130 children enrolled in child care, shall be included in the
 131 overall capacity of the licensed home. A large family child care
 132 home shall be allowed to provide care for one of the following
 133 groups of children, which shall include household ~~those~~ children
 134 under 13 years of age ~~who are related to the caregiver:~~

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

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

139 (10)~~(9)~~ "Indoor recreational facility" means an indoor
140 commercial facility which is established for the primary purpose
141 of entertaining children in a planned fitness environment
142 through equipment, games, and activities in conjunction with
143 food service and which provides child care for a particular
144 child no more than 4 hours on any one day. An indoor
145 recreational facility must be licensed as a child care facility
146 under s. 402.305, but is exempt from the minimum outdoor-square-
147 footage-per-child requirement specified in that section, if the
148 indoor recreational facility has, at a minimum, 3,000 square
149 feet of usable indoor floor space.

150 (11)~~(10)~~ "Local licensing agency" means any agency or
151 individual designated by the county to license child care
152 facilities.

153 (12)~~(11)~~ "Operator" means any onsite person ultimately
154 responsible for the overall operation of a child care facility,
155 whether or not he or she is the owner or administrator of such
156 facility.

157 (13)~~(12)~~ "Owner" means the person who is licensed to
158 operate the child care facility.

159 (14)~~(13)~~ "Screening" means the act of assessing the
160 background of child care personnel and volunteers and includes,
161 but is not limited to, employment history checks, local criminal
162 records checks through local law enforcement agencies,
163 fingerprinting for all purposes and checks in this subsection,
164 statewide criminal records checks through the Department of Law
165 Enforcement, and federal criminal records checks through the
166 Federal Bureau of Investigation.

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167 ~~(15)-(14)~~ "Secretary" means the Secretary of Children and
168 Family Services.

169 ~~(16)-(15)~~ "Substantial compliance" means that level of
170 adherence which is sufficient to safeguard the health, safety,
171 and well-being of all children under care. Substantial
172 compliance is greater than minimal adherence but not to the
173 level of absolute adherence. Where a violation or variation is
174 identified as the type which impacts, or can be reasonably
175 expected within 90 days to impact, the health, safety, or well-
176 being of a child, there is no substantial compliance.

177 ~~(17)-(16)~~ "Weekend child care" means child care provided
178 between the hours of 6 p.m. on Friday and 6 a.m. on Monday.

179 Section 2. Section 402.318, Florida Statutes, is amended
180 to read:

181 402.318 Advertisement.—No person, as defined in s.
182 1.01(3), shall advertise or publish an advertisement for a child
183 care facility, family day care home, or large family child care
184 home without including within such advertisement the state or
185 local agency license number or registration number of such
186 facility or home. Violation of this section is a misdemeanor of
187 the first degree, punishable as provided in s. 775.082 or s.
188 775.083.

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