



481152

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/09/2010	.	
	.	
	.	
	.	

The Committee on Children, Families, and Elder Affairs (Justice) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. 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



481152

13 made for care.

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



481152

42 the facility during its hours of operation. Members of the
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



481152

71 child care arrangements shall meet all requirements for a child
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



481152

100 child care home operator, or an adult household member who
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



481152

129 of entertaining children in a planned fitness environment
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



481152

158 adherence which is sufficient to safeguard the health, safety,
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 2. Section 402.318, Florida Statutes, is amended to
168 read:

169 402.318 Advertisement.—No person, as defined in s. 1.01(3),
170 shall advertise or publish an advertisement for a child care
171 facility, family day care home, or large family child care home
172 without including within such advertisement the state or local
173 agency license number or registration number of such facility or
174 home. Violation of this section is a misdemeanor of the first
175 degree, punishable as provided in s. 775.082 or s. 775.083.

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

177
178 ===== T I T L E A M E N D M E N T =====

179 And the title is amended as follows:

180 Delete everything before the enacting clause
181 and insert:

182 A bill to be entitled
183 An act relating to child care facilities; amending s.
184 402.302, F.S.; revising and providing definitions;
185 providing for certain household children to be
186 included in calculations regarding the capacity of



481152

187 licensed family day care homes and large family child
188 care homes; providing conditions for supervision of
189 household children of operators of family day care
190 homes and large family child care homes; amending s.
191 402.318, F.S.; revising advertising requirements
192 applicable to child care facilities; providing
193 penalties; providing an effective date.