

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Children, Families, and Elder Affairs Committee

BILL: CS/SB 834

INTRODUCER: Senator Justice

SUBJECT: Child Care Facilities

DATE: March 9, 2010

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hansson	Walsh	CF	Fav/CS
2.			HA	
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="checked" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The bill amends ch. 402, F.S., to create a definition for household children which conditions supervision of the operator's household children to the discretion of the operator unless those children receive subsidized child care to be in the home. The bill amends the definition of family day care home and large family child care home to require that household children be included in the capacity calculation of licensed family day care homes and large family child care homes, whether on the premises or on a field trip with children enrolled in child care.

The bill also requires persons advertising or publishing an advertisement for a child care facility, family day care home, or large family child care home to include in the advertisement the state or local agency license number or registration number of such facility or home.

The bill substantially amends the following sections of the Florida Statutes: 402.302 and 402.318.

The bill provides an effective date of July 1, 2010.

II. Present Situation:

Licensing

Child care facilities in the state must meet licensing standards established by the Department of Children and Family Services (DCF or department).¹ However, current law permits any county with licensing standards that meet or exceed the state minimum standards to either designate a local licensing agency to license child care facilities in the county or contract with DCF to delegate the administration of the state minimum standards in the county to the department.² Currently, DCF is responsible for administering child care licensing and training in 61 of Florida's 67 counties.³ The remaining six counties (Brevard, Broward, Hillsborough, Palm Beach, Pinellas, and Sarasota) have licensing standards that exceed the state's minimum licensing standards for family day care homes.⁴ These counties license family day care homes as a function of county government.

Family Day Care Homes

A family day care home is an occupied residence in which child care is regularly provided for children from at least two unrelated families and which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit.⁵ Care can be provided for one of the following groups of children, including children under the age of 13 who are related to the caregiver;

- A maximum of four children from birth to 12 months;
- A maximum of three children from birth to 12 months, and other children over the age of 12 months, up to a total of six children;
- A maximum of six preschool children if all are older than 12 months;
- A maximum of 10 children if no more than five are preschool age and, of those five, no more than two are under 12 months.⁶

Current law requires family day care homes to have either a license or registration. The home must have a license if it is presently being licensed under an existing county ordinance, participating in the subsidized child care program, or if the county passes a resolution requiring licensure.⁷ If not subject to license, then the family day care home must register annually with DCF and receive a registration number.⁸

Large Family Child Care Home

A large family child care home is an occupied residence in which: (1) child care is provided for children from at least two unrelated families; (2) for payment, fee, or grant for any of the children receiving care, whether or not operated for profit; and (3) which has at least two full-

¹ Section 402.305(1), F.S.

² Section 402.306(1), F.S.

³ Florida Department of Children and Families, *Child Care Regulation*, <http://www.dcf.state.fl.us/childcare/licensing.shtml> (last accessed March 3, 2010).

⁴ *Id.*

⁵ Section 402.302(7), F.S.

⁶ *Id.*

⁷ Section 402.313(1), F.S.

⁸ Section 402.313(1)(a), F.S.

time child care personnel.⁹ Before seeking licensure, a large family child care home must first have operated for a minimum of two consecutive years, with an operator who has had a child development associate credential or its equivalent for one year.¹⁰ Care can be provided to one of the following groups, which includes children under 13 years of age who are related to the caregiver:

- A maximum of 8 children from birth to 24 months;
- A maximum of 12 children, with no more than 4 children under 24 months.¹¹

Large family day care homes are required to be licensed by DCF and subject to minimum standards established by rule.¹² DCF is permitted to provide technical assistance to counties and family day care home providers to enable to counties and providers to achieve compliance with minimum standards for large family child care homes.¹³

Background Screening

Personnel of both family day care homes and large family child care homes are subject to level 2 screening and other screening requirements established by law.¹⁴ Screening includes any member over the age of 12 years of a family day care home operator's family, or persons over the age of 12 years residing with the operator in the family day care home.¹⁵ Family members or persons residing with the operator who are between the ages of 12 and 18 years are not required to be fingerprinted, but are screened for delinquency records.¹⁶

Supervision

DCF has promulgated administrative rules related to supervision of children and staffing requirements. These rules apply to all children in the home, including children related to the operator. Specifically, operators are responsible for the supervision of children at all times, including when the children are napping or sleeping.¹⁷ When children are napping or sleeping in bedrooms, the rules require that the room's doors must remain open.¹⁸ All children, during the daytime, must have adult supervision, consisting of watching and directing their activities both indoors and outdoors.¹⁹ If a child is sick and placed in isolation, he or she must remain within sight and hearing of the operator.²⁰ When being diapered or when changing clothes, the children must be attended to at all times.²¹

⁹ Section 402.302(8), F.S.

¹⁰ *Id.* See also s. 402.3131(1)(a), F.S.

¹¹ Section 402.302(8), F.S.

¹² Sections 402.3131(1), (7), F.S.

¹³ Section 402.3131(1)(b), F.S.

¹⁴ Section 402.313(3), F.S.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ 65C-20.009(5)(a), F.A.C.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ 65C-20.009(5)(b), F.A.C.

²¹ 65C-20.009(5)(c), F.A.C.

Advertisement

Any advertisement for a child care facility must include within such advertisement the state or local agency license number or registration number of the facility or home. Failure to do so is a misdemeanor of the first degree.²²

III. Effect of Proposed Changes:

This bill creates the definition, “household children,” to mean children who are related by blood, marriage, or legal adoption to, or who are the legal wards of, the family day care home operator, the large family child care home operator, or an adult household member who permanently or temporarily resides in the home.

The definition also conditions supervision of the operator’s household children to the discretion of the operator unless those children receive subsidized child care to be in the home. Licensing agency inspectors will not be able to restrict an operator’s supervision of their own household children.^{23, 24}

This bill also amends the definitions for both “family day care home” and “large family child care home” to clarify that “household children” under the age of 13 are included in the calculations to determine the maximum numbers of children that can receive care. Current law requires that children under 13 years of age who are related to the caregiver are included in determining the number of children that can be cared for. This proposal will increase the number of children included in the capacity of the child care home by including children related to an adult household member who is not the caregiver.

Additionally, the bill provides that the household children be included in the overall capacity of the licensed home whether they are on the premises or “on a field trip with children enrolled in child care.” The intent is to ensure that the capacity is not adjusted if household children are not on the premises or participating in a field trip.

The bill amends s. 402.318, F.S., by extending advertising requirements to family day care homes, large family child care homes, and those publishers of their advertisements. This change will provide consumers with the license number or registration number of the child care facilities, family day care home, or large family child care home.

The bill provides an effective date of July 1, 2010.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

²² Section 402.318, F.S.

²³ 65C-20.009(5), F.A.C.

²⁴ But see Related Issues, *infra*

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Passage of the bill will require family day care homes, large family child care homes, and those publishers of their advertisements to comply with the new advertising requirements.

C. Government Sector Impact:

Passage of the bill may increase the workload of licensing agency inspectors, as they may have to spend more time determining which children are household children and which children are enrolled in child care and in preparing their reports accordingly. The bill does not provide guidelines for licensing agency inspectors to prove which children are household children. Confusing household children with non-household children when issuing reports, citations, etc., could result in greater administrative action.

VI. Technical Deficiencies:

None.

VII. Related Issues:

In order for this to have an effect on Pinellas County, special law 61-2681, Laws of Florida, as amended by section 1 of chapter 70-893, Laws of Florida, creating licensing and regulating children's centers and family day care homes in Pinellas County would need to be amended to require this level of supervision and no higher.²⁵

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Children, Families, and Elder Affairs on March 9, 2010:

The CS removes reference to level 2 screening from the definition of household children

²⁵ See 61-2681, Laws of Florida, as amended by 70-893, available at: <http://laws.flrules.org/2007/277>, (last accessed March 6, 2010).

and instead defines household children to include those who are the legal wards of the family day care home or large family care home operator, or any adult household member. The CS also removes the requirement that the department or local licensing agency report any person that violates this section to the state attorney's office in the appropriate judicial circuit. Finally, the CS requires that ads also include the registration number of the family day care home, as appropriate.

B. Amendments:

None.