

By Senator Justice

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

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

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

22           402.302 Definitions.—As used in this chapter, the term:

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

29           (2) "Child care facility" includes any child care center or

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30 child care arrangement which provides child care for more than  
31 five children unrelated to the operator and which receives a  
32 payment, fee, or grant for any of the children receiving care,  
33 wherever operated, and whether or not operated for profit. The  
34 following are not included:

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

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

38 (c) Summer day camps;

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

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

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

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

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

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

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

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

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

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

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

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

109  
110 Household children under 13 years of age, whether on the  
111 premises of the family day care home or on a field trip with  
112 children enrolled in child care, shall be included in the  
113 overall capacity of the licensed home.

114 (8) "Household children" means children who are related by  
115 blood, marriage, or legal adoption to, or who are the legal  
116 wards of, an adult household member who meets the level 2

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117 screening requirements as provided in s. 435.04. Supervision of  
118 the operator's household children shall be left to the  
119 discretion of the operator unless those children receive  
120 subsidized child care to be in the home.

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

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

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

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

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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.

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.

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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 to  
186 read:

187        402.318 Advertisement.—No person, as defined in s. 1.01(3),  
188 shall advertise or publish an advertisement for a child care  
189 facility, family day care home, or large family child care home  
190 without including within such advertisement the state or local  
191 agency license number of such facility or home. The department  
192 or local licensing agency shall report any person that violates  
193 this section to the state attorney's office in the appropriate  
194 judicial circuit. Violation of this section is a misdemeanor of  
195 the first degree, punishable as provided in s. 775.082 or s.  
196 775.083.

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