

By the Committee on Children, Families, and Elder Affairs; and
Senator Justice

586-02739-10

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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.; revising advertising requirements
11 applicable to child care facilities; providing
12 penalties; providing an effective 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 to
17 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 or
26 child care arrangement which provides child care for more than
27 five children unrelated to the operator and which receives a
28 payment, fee, or grant for any of the children receiving care,
29 wherever operated, and whether or not operated for profit. The

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30 following are not included:

31 (a) Public schools and nonpublic schools and their integral
32 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
57 records. For purposes of screening, the term shall also include
58 persons who work in child care programs which provide care for

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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.

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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 ~~those~~ 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

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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 age.

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

138 ~~(10)-(9)~~ (10) "Indoor recreational facility" means an indoor
139 commercial facility which is established for the primary purpose
140 of entertaining children in a planned fitness environment
141 through equipment, games, and activities in conjunction with
142 food service and which provides child care for a particular
143 child no more than 4 hours on any one day. An indoor
144 recreational facility must be licensed as a child care facility
145 under s. 402.305, but is exempt from the minimum outdoor-square-

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146 footage-per-child requirement specified in that section, if the
147 indoor recreational facility has, at a minimum, 3,000 square
148 feet of usable indoor floor space.

149 (11)~~(10)~~ "Local licensing agency" means any agency or
150 individual designated by the county to license child care
151 facilities.

152 (12)~~(11)~~ "Operator" means any onsite person ultimately
153 responsible for the overall operation of a child care facility,
154 whether or not he or she is the owner or administrator of such
155 facility.

156 (13)~~(12)~~ "Owner" means the person who is licensed to
157 operate the child care facility.

158 (14)~~(13)~~ "Screening" means the act of assessing the
159 background of child care personnel and volunteers and includes,
160 but is not limited to, employment history checks, local criminal
161 records checks through local law enforcement agencies,
162 fingerprinting for all purposes and checks in this subsection,
163 statewide criminal records checks through the Department of Law
164 Enforcement, and federal criminal records checks through the
165 Federal Bureau of Investigation.

166 (15)~~(14)~~ "Secretary" means the Secretary of Children and
167 Family Services.

168 (16)~~(15)~~ "Substantial compliance" means that level of
169 adherence which is sufficient to safeguard the health, safety,
170 and well-being of all children under care. Substantial
171 compliance is greater than minimal adherence but not to the
172 level of absolute adherence. Where a violation or variation is
173 identified as the type which impacts, or can be reasonably
174 expected within 90 days to impact, the health, safety, or well-

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175 being of a child, there is no substantial compliance.

176 ~~(17)-(16)~~ "Weekend child care" means child care provided
177 between the hours of 6 p.m. on Friday and 6 a.m. on Monday.

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

180 402.318 Advertisement.—No person, as defined in s. 1.01(3),
181 shall advertise or publish an advertisement for a child care
182 facility, family day care home, or large family child care home
183 without including within such advertisement the state or local
184 agency license number or registration number of such facility or
185 home. Violation of this section is a misdemeanor of the first
186 degree, punishable as provided in s. 775.082 or s. 775.083.

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