

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 303 Licensing of Facilities that Offer Health and Human Services
SPONSOR(S): Health Care Appropriations Subcommittee; Healthy Families Subcommittee; Berman
TIED BILLS: **IDEN./SIM. BILLS:** SB 394

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Healthy Families Subcommittee	12 Y, 0 N, As CS	Entress	Brazzell
2) Health Care Appropriations Subcommittee	12 Y, 0 N, As CS	Fontaine	Pridgeon
3) Health & Human Services Committee			

SUMMARY ANALYSIS

Child care can be provided by family day care homes, child care facilities, and large family child care homes. These facilities and homes are subject to a number of regulations by the Department of Children and Families (DCF). The bill makes the following changes to the regulations of these facilities and homes:

- Amends the definition of “family day care home” to include a home advertising the availability of its services, whether or not it receives a fee or payment;
- Clarifies that child care personnel of resorts providing child care services solely for the guests of their establishments must be screened according to the level 2 screening requirements of chapter 435;
- Requires that child care facilities exempt from licensing requirements include the state or local agency license number or registration number of the facility when advertising;
- Defines advertisement;
- Requires licensed or registered family day care homes and large family child care homes to conspicuously display the license or registration in the common area of the home;
- Requires that the substitute for a registered family day care home meet the screening and training requirements of DCF; and
- Specifies that the background checks are required for the operator, each household member, and the designated substitute of a registered family day care home.

The bill also changes the Department of Children and Family Services to the Department of Children and Families, to conform to current law.

The bill does not appear to have a fiscal impact.

The bill provides an effective date of July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The definition of “child care” provides for a payment, fee or grant for the supervision of a child for less than 24 hours a day on a regular basis.¹ According to the Department of Children & Families (DCF), in fiscal year 2011-12, DCF issued licenses to approximately 4,671 child care facilities, 1,484 family day care homes and 315 large family child care homes in Florida.² In addition, DCF indicated that there are 1,132 registered child care homes.³ These facilities serve over 481,445 children.⁴

Child Care Facilities

“Child care facility” is defined as a child care center or child care arrangement providing child care for more than five children unrelated to the operator, wherever operated and whether or not operated for profit which receives a payment, fee or grant.⁵

Family Day Care Homes

A family day care home must be licensed if it is presently being licensed under an existing county licensing ordinance or if the board of county commissioners passes a resolution that family day care homes be licensed.⁶ If a family day care home is not subject to a license, it must register annually with the Department of Children and Families (DCF) and provide certain information, including proof of screening and background checks.⁷

Large Family Child Care Home

A large family child care home means an occupied residence in which child care is regularly provided for children from at least two unrelated families, which receives a payment, fee or grant for any of the children receiving care, whether or not operated for profit, and which has at least two full-time child care personnel on the premises during the hours of operation.⁸ A large family child care home must be licensed.⁹ The child care personnel subject to the applicable screening provisions of s. 402.305(2) and 402.3055, F.S., includes any member of a large family child care home operator’s family 12 years of age or older, or any person 12 years of age or older residing with the operator in the large family care home. Members of the operator’s family, or persons residing with the operator, who are between the ages of 12 years and 18 years, inclusive, shall not be required to be fingerprinted, but shall be screened for delinquency records.¹⁰

¹ S. 402.302, F.S.

² DCF quick facts, The Department of Children and Families, *accessible at*: http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=1&cad=rja&ved=0CCQQFjAA&url=http%3A%2F%2Fwww.dcf.state.fl.us%2Fnewsroom%2Fdocs%2Fquickfacts.pdf&ei=C-gVU5v_DcbLkQew5YGwCw&usg=AFQjCNEv_uf2t02o8RxRNIWALzoCFIzJQ (last visited March 4, 2014).

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ Section 402.313, F.S.

⁷ *Id.*

⁸ *Supra* at note 2.

⁹ *Supra* at note 6.

¹⁰ *Id.*

Advertising

A person may not advertise a child care facility, a family day care home or a large family child care home without including the state or local agency license number or registration number of the facility. If a person advertises without a license or registration number, the violation is a misdemeanor of the first degree.¹¹

Effect of Proposed Changes

Child Care Facilities

The bill clarifies that child care personnel of resorts providing child care services solely for the guests of their establishments must be screened according to the level 2 screening requirements of chapter 435. Currently, the screening only applies to child care personnel of establishments which provide child care services for the guests of their establishments. The bill expands this to resorts as well.

Currently, a person may not advertise child care facilities, family day care homes, and large family day care homes without including the state or local agency license number or registration number of the facility or home. The bill adds child care facilities exempt from licensing requirements to these advertising restrictions. The bill also defines advertisement as including, but not limited to, the marketing of child care services to the public on vehicles, print materials, electronic media, including Internet sites, and radio and television announcements.

Family Day Care Homes

The bill changes the definition of family day care home to include a home advertising the availability of its services, whether or not it receives a fee or payment.

The bill requires licensed or registered family day care homes to conspicuously display the license or registration in the common area of the home.

Current law requires a registered family day care home to provide DCF with proof of a written plan to provide at least one other competent adult to be available as a substitute for the operator in an emergency. The bill requires that the substitute identified in the written plan has met the screening and training requirements of DCF to serve as a designated substitute.

Currently, registered family day care homes are required to provide DCF proof of screening and background checks. The bill specifies that the background checks are required for the operator, each household member, and the designated substitute.

Large Family Child Care Homes

The bill requires a large family child care home to permanently post its licensed in a conspicuous location that is visible by all parents and guardians, as well as DCF.

The bill also changes the Department of Children and Family Services to the Department of Children and Families, to conform to current law.

The bill provides an effective date of July 1, 2014.

B. SECTION DIRECTORY:

- Section 1:** Amends s. 402.302, F.S., relating to definitions.
- Section 2:** Amends s. 402.313, F.S., relating to family day care homes.
- Section 3:** Amends s. 402.3131, F.S., relating to large family child care homes.

¹¹ Section 402.318, F.S.
STORAGE NAME: h0303c.HCAS
DATE: 3/31/2014

Section 4: Amends s. 402.318, F.S., relating to advertisement.

Section 5: Provides for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill could result in a negative local jail bed impact because it creates a new misdemeanor for any entity or person who advertises as a child care facility as defined in s. 402.316, without including the state or local agency license number, exemption number, or registration number of such facility within the advertisement.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 5, 2014, the Healthy Families Subcommittee adopted a strike-all amendment. The strike-all amendment made the following changes:

- Creates a definition of the term “advertise” in the definition section.
- Restores current language in the definitions of “child care facility” and “child care”.
- Redefines the term “family day care home” to include a home advertising the availability of its services, whether or not it receives a fee or payment.
- Restores current language regarding maximum fees charged for licensure of a child care facility.

On March 31, 2014, the Health Care Appropriations Subcommittee adopted one amendment. The amendment removed the bill’s modification to the definition of “child care facility” that related to the number of children under care by the facility. This analysis is drafted to the bill as amended by the subcommittee.