

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 Committee on Children, Families, and Elder Affairs

BILL: SB 394

INTRODUCER: Senator Gibson

SUBJECT: Licensing of Facilities that offer Health and Human Services

DATE: February 3, 2014

REVISED: 02/04/14

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Crosier	Hendon	CF	Favorable
2.			AHS	
3.			AP	

I. Summary:

SB 394 redefines the term “child care” to include a person or facility that does not receive compensation. It redefines the term “child care facility” to include a child care center or child care arrangement that does not receive compensation for more than four, rather than five, children, unrelated to the operator. It requires a family day care home to conspicuously display its license or registration in the common area of the home. A large family child care home is required to permanently post its license in a conspicuous location visible to parents, guardians and the Department of Children & Families (department). Family day care homes not subject to licensing must register with the department and provide the identity of the competent adult who has met the screening and training requirements of the department to serve as a designated substitute for the operator in an emergency. Additionally family day care homes not subject to licensing must provide proof of screening and background checks for the operator, household members and the designated substitute. The bill repeals the maximum licensing fee of \$100 per facility. Finally, the bill prohibits the advertising of a child care facility, family day care home or large family day care home unless it is licensed or registered. Violation of the advertising prohibition is a first degree misdemeanor. The fiscal impact is unknown, but the bill provides for the department to charge a fee for licensing. The bill is effective July 1, 2014.

II. Present Situation:

There are many different settings that are designed to provide child care for payment. Additionally, there are settings that provide child care services for non-payment, such as public and nonpublic schools, summer camps with children as full-time residence, summer day camps, Bible schools and care offered at transient establishments solely for guests of the establishment or resort.

According to the U.S. Department of Health & Human Services in 2011 licenses were issued to approximately 6,750 child care facilities, 3,327 family child care homes and 412 group child care

homes in Florida.¹ 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.² “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.³

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.⁴ If a family day care home is not subject to a license it must register annually with the department and provide certain information, including proof of screening and background checks.⁵ However, the statute does not identify the persons subject to the screenings or background checks.

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.⁶ A large family child care home must be licensed.⁷ 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.⁸

The department shall collect a fee for any license it issues for a child care facility, family day care home, or large family child care home.⁹ The fee for a child care facility licensed under s.402.305, F.S. is \$1 per child based on the licensed capacity of the facility with a minimum fee of \$25 per facility and a maximum fee of \$100 per facility.¹⁰ The fee is \$25 for a family day care home registered pursuant to s. 402.313, F.S.¹¹ The fee is \$50 for a family day care home licensed pursuant to s. 402.313, F.S.¹² The fee is \$60 for a large family child care home licensed pursuant to s. 402.3131, F.S.¹³

¹ U.S. Department of Health & Human Services, *Administration for Children*, available at <https://childcare.gov/resource/number-licensed-child-care-facilities-2011> (follow attachment Number of Child Care Facilities in 2011) (last visited Jan. 24, 2014).

² Section 402.302(1), F.S.

³ Section 402.302(2), F.S.

⁴ Section 402.313(1), F.S.

⁵ Section 402.313(1)(a), F.S.

⁶ Section 402.302(11), F.S.

⁷ Section 402.3131(1), F.S.

⁸ Section 402.3131(2), F.S.

⁹ Section 402.315(3), F.S.

¹⁰ Section 402.315(3)(a), F.S.

¹¹ Section 402.315(3)(b), F.S.

¹² Section 402.315(3)(c), F.S.

¹³ Section 402.315(3)(d), F.S.

Advertisement of 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 is prohibited. A violation is a misdemeanor of the first degree.¹⁴

III. Effect of Proposed Changes:

Section 1 amends s. 402.302(1), F.S. to remove the requirement that there is a payment, fee or grant for the care from the definition of “child care.” This section also removes the requirement a payment, fee or grant for the care from the definition of “child care facility.” There are many types of child care arrangements that do not require registration or licensure due to the fact that a payment, fee or grant is not received for providing the service/care. Examples of such arrangements include: Mothers Morning Out programs (parents take turns providing care for other’s children for no payment), Parents Night Out programs, programs that provide after school service at no charge beyond the cost of lessons purchased, as well as some programs offered by the Boys and Girls Club. The proposed language could result in currently unlicensed legally operating child care arrangements having to pursue licensure or registration. New regulatory costs would be imposed on these providers as they would be required to meet state child care licensing standards, such as certain minimum numbers of trained staff and standards for physical environment.

By removing the compensation requirement, a facility providing care for more than four (instead of five) children unrelated to the operator will be required to be registered or licensed. While this change may increase the number of facilities to be registered or licensed, it will require them to meet licensing standards designed to address the health, safety and adequate physical surroundings for all children in child care. Additionally, this section requires all child care personnel of a transient establishment or resort to be screened according to the level 2 screening requirements of ch. 435, F.S.

Section 2 amends s.402.313(1), F.S. to require a family day care home to be licensed and that each licensed or registered family day care home must conspicuously display its license or registration in the common area of the home. Section 402.313(1)(a), F.S. requires a family day care home that is not subject to licensure to register annually with the department. In addition to the currently required information, the family day care center must provide proof of a written plan that identifies a competent adult who has met the screening and training requirements of the department to serve as a designated substitute for the operator in an emergency. Proof of screening and background checks for the operator, each household member and the designated substitute will now be required to be provided.

Section 3 amends s. 402.3131, F.S., to require large family child care homes to permanently post its license in a conspicuous location that is visible by all parents and guardians and the department.

Section 4 amends s. 402.315(3)(a), F.S. to allow the department to collect a fee for a license issued for a child care facility at \$1 per child, based on the licensed capacity of the facility. If a

¹⁴ Section 402.318, F.S.

facility has a licensed capacity of 25 children or fewer there is a minimum fee is \$25. The maximum fee of \$100 is removed.

Section 5 amends s. 402.318, F.S. which prohibits the advertising of a child care facility, family day care home or large family day care home unless it is licensed or registered without including certain license or registration information. This section defines the term “advertisement” to include, but not be 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. A person violating this section commits a misdemeanor of the first degree.

Section 6 of the bill provides an effective date of July 1, 2014.

IV. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

A family day care home not subject to licensure must register annually with the department and will incur costs of screening and background checks for the operator, each household member and the designated substitute.

The elimination of the maximum license fee of \$100 paid by child care facilities to the department would impact the facilities with a licensed capacity of more than 100 children (the current fee is \$1 per child based on the licensed capacity of the facility with a maximum of \$100); however, the total impact is unknown.

C. Government Sector Impact:

State Government

The additional fees collected due to the elimination of the maximum license fee of \$100 will be deposited by the department in a trust fund and used to fund child care licensing activities, including the Gold Seal Quality Care program.

The addition of child care facilities providing care for no compensation will increase the number of homes either registered or licensed by the department. The number of additional child care facilities required to be licensed by the department is unknown. The extent to which the license fees cover the department’s costs, the new fees would fund the increased activity. Registration information is currently provided to the department so the impact should not be significant.

Local Government

Counties that license child care facilities instead of the department would see an increase in the number of facilities licensed. The impact is unknown but counties are authorized to collect a fee.

V. Technical Deficiencies:

The proposed legislation requires proof of screening and background checks for the operator, each household member and the designated substitute for family day care homes that are required to register with DCF annually. The proposed language does not include a definition of household members. Section 402.313(3), F.S., provides a definition of the household members required to be screened for large family day care homes. Including the same definition for household members for registered family day care homes may reduce confusion about who is subject to the screenings.

VI. Related Issues:

None.

VII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 402.302, 402.313, 402.3131, 402.315, and 402.318.

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

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

None.

B. Amendments:

None.