

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 119 Licensing of Facilities that offer Health and Human Services

SPONSOR(S): Children, Families & Seniors Subcommittee; Berman

TIED BILLS: **IDEN./SIM. BILLS:** SB 210

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

SUMMARY ANALYSIS

“Child care” is defined as the care, protection, and supervision of a child, for a period of less than 24 hours a day on a regular basis, which supplements parental care, enrichment, and health supervision for the child, in accordance with his or her individual needs, and for which a payment, fee, or grant is made for care. “Child care” can be provided by family day care homes, child care facilities, large family child care homes, and registered child care homes. These facilities and homes are subject to regulation by the Department of Children and Families (DCF). The bill makes the following changes to the regulation of these facilities and homes:

- Defines “advertise”;
- Redefines “family day care home” to include homes that advertise the availability of services regardless of whether they operate for payment, fee, or grant;
- Requires licensed or registered family day care homes to conspicuously display their 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;
- Specifies that proof of screening and background checks are required for the operator, each household member, and the designated substitute of a registered family day care home;
- Requires large family child care homes to permanently post its license in a conspicuous location, visible to all parents, guardians, and the department;
- Requires that a person advertising child care facilities exempt from licensing requirements include an exemption number in the advertisement.

The bill provides an effective date of July 1, 2015.

The bill has an indeterminate fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The State of Florida regulates and licenses child care with the intent to protect the health, safety, and well-being of the children of the state and to promote their emotional and intellectual development and care.¹

“Child care” is defined as the care, protection, and supervision of a child, for a period of less than 24 hours a day on a regular basis, which supplements parental care, enrichment, and health supervision for the child, in accordance with his or her individual needs, and for which a payment, fee, or grant is made for care.²

Child care is provided throughout the state in licensed, registered, or exempt child care facilities, family day care homes, large family child care homes, and registered child care homes. These facilities serve over 483,000 children.³

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.⁴ Child care facilities must be licensed,⁵ unless currently exempted by statute (public and nonpublic schools, summer camps, bible schools or transient establishments)⁶.

According to the DCF, in Fiscal Year 2013-14, on average each month, DCF licensed 4,639 child care facilities.⁷

Family Day Care Homes and Registered Family Day Care Homes

A “family day care home” is defined as 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.⁸

Typically, family day care homes are only required to register with DCF. However, if 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, they must seek licensure from DCF.⁹ If a family day care home is not subject to a license, it must register annually with DCF and provide certain information, including proof of screening and background checks.¹⁰

According to DCF, in Fiscal Year 2013-14, on average each month, DCF was responsible for the licensure and regulation of 1,369 family day care homes, and 998 registered family day care homes.¹¹

¹ s. 402.301, F.S.

² s. 402.302, F.S.

³ DCF quick facts, The Department of Children and Families, *accessible at*: <http://www.dcf.state.fl.us/general-information/quick-facts/FY2013Q4/cc/> (last visited February 3, 2015)

⁴ *Supra.* at note 2

⁵ s. 402.308(1), F.S.

⁶ S. 402.302(2), F.S.

⁷ *Supra.* at note 3

⁸ *Supra.* at note 2

⁹ s. 402.313, F.S.

¹⁰ *Id.*

¹¹ *Supra.* at note 3.

Large Family Child Care Home

A “large family child care home” is defined as 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.¹² Large family child care homes must be licensed by DCF.¹³

According to DCF, in Fiscal Year 2013-14, on average each month, DCF was responsible for the licensure of 313 large family child care homes.¹⁴

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 the availability of a child care facility, family day care home, or large family child care home without including a license or registration number in the advertisement, the violation is a misdemeanor of the first degree.¹⁵

If a home is exempt from licensure, the statute is currently silent as to any requirement of providing an exemption number in advertisements.

Illegally Operating Family Day Care Homes

Some children are cared for in family day care homes that operate illegally. According to DCF, “A home operating without obtaining the necessary registration or licensure (minimum health and safety requirements), places children in care at risk as the individuals having day to day, one on one contact with children have not met the screening and background check requirements, the health and safety of the home environment has not been inspected, for licensure, or self-attested to meeting, for registered homes, and the operator/person caring for the children has not completed basic health and safety training developed to help ensure the health and safety of children.”¹⁶

Effect of Proposed Changes

Advertising

The bill defines “advertise” as marketing child care services through any means, including but not limited to online message boards, vehicle signs, newspaper advertisements, roadside signs, flyers, or posters, and radio and television announcements.

Also, 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, pursuant to s. 402.36, F.S., to these advertising restrictions and requires them to include an exemption number in their advertisements.

Family Day Care Homes

¹² *Supra* at note 2.

¹³ s. 402.3131, F.S.

¹⁴ *Supra.* at note 3.

¹⁵ s. 402.318, F.S.

¹⁶ Email from Office of Child Care Regulation & Background Screening, DCF, on Feb. 6, 2015; on file with Children, Families & Seniors Subcommittee staff.

The bill expands the definition of “family day care home” to include homes that advertise the availability of services, whether it receives payment, fee, or grant, or whether operated for profit.

The bill requires licensed or registered family day care homes to conspicuously display their 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 license in a conspicuous location that is visible by all parents and guardians as well as DCF.

The bill provides an effective date of July 1, 2015.

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.
- Section 4:** Amends s. 402.318, F.S., relating to advertisement.
- Section 5:** Amends s. 402.317, F.S., relating to prolonged child care.
- Section 6:** Amends s. 1002.88, F.S., relating to school readiness program provider.
- Section 7:** Provides for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

This could expand the number of child care arrangements which require licensure or registration.

At this time, DCF is unable to identify the number of programs that would newly require regulation under the bill or the FTEs required to conduct the required inspections for licensure. An increase in the number of regulated child care providers will produce an increase in the number of regulatory actions and thus an increase in the workload for Department legal staff. If the increased regulatory activity is significant or concentrated in one part of the state, the Department may need additional licensing staff as well as legal staff to support administrative activities.¹⁷

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

This could expand the number of child care arrangements which require licensure or registration.

At this time, DCF is unable to identify the number of programs that would newly require regulation under the bill. An increase in the number of regulated child care providers will produce an increase in the number of regulatory actions and thus an increase in the workload for Department legal staff. If the increased regulatory activity is significant or concentrated in one part of the state, the Department may need additional legal staff to support administrative activities.¹⁸

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 10, 2015, the Children, Families & Seniors Subcommittee adopted a strike-all amendment. The 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; and
- Restores current language regarding maximum fees charged for licensure of a child care facility.

The bill was reported favorably as a committee substitute. The analysis is drafted to the committee substitute.

¹⁸ *Id.*