

**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.)

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Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

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BILL: CS/SB 210

INTRODUCER: Children, Families, & Elder Affairs and Senator Gibson

SUBJECT: Licensing of Facilities that Offer Health and Human Services

DATE: March 5, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Crosier	Hendon	CF	Fav/CS
2.			AHS	
3.			AP	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 210 creates a definition for “advertising” when marketing child care services and revises the definition of “family day care home” to require a family day care home to be licensed if it provides child care for less than 24 hours a day on a regular basis for children from at least two unrelated families and either receives payment or advertises the availability of its services. 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 and 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. Violation of the advertising prohibition is a first degree misdemeanor.

The bill is effective July 1, 2015. The fiscal impact is unknown, but the bill provides for the department to charge a fee for licensing.

**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 and 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.<sup>1</sup> 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.<sup>2</sup> “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.<sup>3</sup>

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.<sup>4</sup> Five counties, Broward, Hillsborough, Palm Beach, Pinellas and Sarasota, have elected to regulate licensing of child care facilities pursuant to s. 402.306, F.S.<sup>5</sup> 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.<sup>6</sup> 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.<sup>7</sup> A large family child care home must be licensed.<sup>8</sup> The child care personnel subject to the applicable screening provisions of ss. 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.<sup>9</sup>

The department collects a fee for any license it issues for a child care facility, family daycare home, or large family child care home.<sup>10</sup> 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

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<sup>1</sup> U.S. Department of Health and Human Services, *Administration for Children*, available at <https://childcareta.acf.hhs.gov/resource/number-licensed-child-care-facilities-2011> (follow attachment Number of Child Care Facilities in 2011) (last visited Feb. 24, 2015).

<sup>2</sup> Section 402.302(1), F.S.

<sup>3</sup> Section 402.302(2), F.S.

<sup>4</sup> Section 402.313(1), F.S.

<sup>5</sup> Florida Department of Children and Families, *Licensing Information* <http://www.myflfamilies.com/service-programs/child-care/licensing-information> (last visited Feb. 25, 2015).

<sup>6</sup> Section 402.313(1)(a), F.S.

<sup>7</sup> Section 402.302(11), F.S.

<sup>8</sup> Section 402.3131(1), F.S.

<sup>9</sup> Section 402.3131(2), F.S.

<sup>10</sup> Section 402.315(3), F.S.

\$25 per facility and a maximum fee of \$100 per facility.<sup>11</sup> The fee is \$25 for a family day care home registered pursuant to s. 402.313, F.S.<sup>12</sup> The fee is \$50 for a family day care home licensed pursuant to s. 402.313, F.S.<sup>13</sup> The fee is \$60 for a large family child care home licensed pursuant to s. 402.3131, F.S.<sup>14</sup>

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.<sup>15</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 402.302(1), F.S., to add the definition of “advertising” child care services through any means, including, but not limited to, online message boards, motor vehicle signs, newspaper advertisements, roadside signs, flyers, posters, and radio and television announcements. Section 402.302(9), F.S., is amended to require that a “family day care home” must be licensed if it provides care for children, on a regular basis for less than 24 hours per day and either receives payment for the care provided or advertises its services pursuant to s. 402.302(1), 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. 402.318, 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. A person violating this section commits a misdemeanor of the first degree.

**Section 5** amends s. 402.317, F.S., to conform cross-references.

**Section 6** amends s. 1002.88, F.S., to conform cross-references.

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<sup>11</sup> Section 402.315(3)(a), F.S.

<sup>12</sup> Section 402.315(3)(b), F.S.

<sup>13</sup> Section 402.315(3)(c), F.S.

<sup>14</sup> Section 402.315(3)(d), F.S.

<sup>15</sup> Section 402.318, F.S.

**Section 7** of the bill provides an effective date of July 1, 2015.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. 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.

C. Government Sector Impact:

**State Government**

The addition of family day care homes either providing care for no compensation or advertising the provision of care regardless of compensation may increase the number of homes licensed by the department. The number of additional family day care homes that will be 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 family day care homes instead of the department would see an increase in the number of homes licensed. The impact is unknown but counties are authorized to collect a fee.

**VI. 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.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 402.302, 402.313, 402.3131, 402.317, 402.318 and 1002.88.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Children, Families, & Elder Affairs on March 5, 2015:**

- Provides a definition of “advertising” for the provision of child care services.
- Revises the definition of “family day care home” to mean the care, protection and supervision of a child, for a period of less than 24 hours per day on a regular basis from two unrelated families and which either receives compensation or advertises the availability of its services regardless of whether payment is received.
- Section 4 of the original bill was deleted which revised the funding and license fees in s. 402.315, F.S.
- Sections 5 and 6 were added to the committee substitute to conform cross-references.

- B. **Amendments:**

None.