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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/05/2018	.	
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The Committee on Children, Families, and Elder Affairs (Hutson) recommended the following:

Senate Amendment (with title amendment)

Delete lines 32 - 92
and insert:
membership organizations that provide child care must be licensed as a child care facility as required under this chapter. Notwithstanding licensure, all personnel as defined in s. 402.302 of such membership organizations shall meet background screening requirements through the department pursuant to ss. 402.305 and 402.3055.



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11 Section 2. Present subsections (1) through (14) of section
12 402.302, Florida Statutes, are redesignated as subsections (2)
13 through (15), respectively, a new subsection (1) is added to
14 that section, present subsections (1) and (2) of that section
15 are amended, present subsections (15) through (18) of that
16 section are redesignated as subsections (17) through (20),
17 respectively, and a new subsection (16) is added to that
18 section, to read:

19 402.302 Definitions.—As used in this chapter, the term:

20 (1) "After-school program" means child care for school-age
21 children during out-of-school times, including, but not limited
22 to, before school or after school, school breaks, and inservice
23 planning days.

24 (a) The term includes, but is not limited to, a program
25 that does not require a parent to be in attendance while the
26 child is at the facility and satisfies three or more of the
27 following elements:

28 1. Provides transportation to or from the facility where
29 the program is offered.

30 2. Provides meals or snacks to children participating in
31 the program.

32 3. Provides more than one type of activity, including but
33 not limited to educational, artistic, athletic, or self-directed
34 activities.

35 4. Provides tutoring or homework assistance, or includes a
36 specific time for children to complete homework while at the
37 program.

38 5. Advertises or holds itself out as providing child care
39 or being an after-school program.



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40 6. Takes children on field trips.

41 (b) The term does not include:

42 1. A program on a public or nonpublic school site which is
43 operated and staffed directly by the school or through a formal
44 agreement between the school and a provider to serve children
45 who attend that school. A lease for space or user agreement is
46 not considered a formal agreement.

47 2. A program that is solely instructional or tutorial.

48 3. An open-access program. For purposes of this
49 subparagraph, the term "open-access program" means a program
50 that allows children to come and go at will. Such a program may
51 not serve children for more than 4 hours per regular school day;
52 may not advertise or otherwise represent that it provides child
53 care or after school care, is an after-school program, or offers
54 supervision; may not provide supervision; may not provide
55 transportation, directly or indirectly; may not provide meals or
56 snacks outside of the federal Afterschool Meal Program; and may
57 not deliver a school readiness program pursuant to s. 1002.88.

58 4. A program that does not hold a Gold Seal Quality Care
59 designation under s. 402.281 which provides child care
60 exclusively for children in grades 6 through 12.

61 (2)(1) "Child care" means the care, protection, and
62 supervision of a child, for a period of less than 24 hours a day
63 on a regular basis, which supplements parental care, enrichment,
64 and health supervision for the child, in accordance with his or
65 her individual needs, and for which a payment, fee, or grant is
66 made for care. A nominal membership fee constitutes a fee for
67 care. Child care may also include, but is not limited to,
68 providing transportation, food services, educational activities,



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69 and instructional activities.

70 (3)-(2) "Child care facility" includes any child care center
71 after school program or child care arrangement that ~~which~~
72 provides child care for more than five children unrelated to the
73 operator and ~~which~~ receives a payment, fee, or grant for any of
74 the children receiving care, wherever operated, regardless of
75 ~~and~~ whether ~~or not~~ operated for profit. The following are not
76 included:

77 (a) Public schools and nonpublic schools and ~~their integral~~
78 programs that operate during regular school hours, except for
79 programs ~~as~~ provided in s. 402.3025;

80 (b) Summer camps having children in full-time residence;

81 (c) Summer day camps;

82 (d) Bible schools normally conducted during vacation
83 periods; and

84 (e) Operators of transient establishments, as defined in
85 chapter 509, which provide child care services solely for the
86 guests of their establishment or resort, provided that all child
87 care personnel of the establishment are screened according to
88 the level 2 screening requirements of chapter 435.

89 (16) "School age child" means a child who is at least 5
90 years of age and no older than 12 years of age by September 1 of
91 the beginning of the school year who is enrolled in kindergarten
92 or a higher grade.

93 Section 3. Paragraph (c) of subsection (1) of section
94 402.305, Florida Statutes, is amended to read:

95 402.305 Licensing standards; child care facilities.—

96 (1) LICENSING STANDARDS.—The department shall establish
97 licensing standards that each licensed child care facility must



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98 meet regardless of the origin or source of the fees used to
99 operate the facility or the type of children served by the
100 facility.

101 (c) The minimum standards for child care facilities shall
102 be adopted in the rules of the department and shall address the
103 areas delineated in this section.

104 1. The department, in adopting rules to establish minimum
105 standards for child care facilities, shall recognize that
106 different age groups of children may require different
107 standards. The department may adopt different minimum standards
108 for facilities that serve children in different age groups,
109 including school-age children. ~~The department shall also adopt~~
110 ~~by rule a definition for child care which distinguishes between~~
111 ~~child care programs that require child care licensure and after-~~
112 ~~school programs that do not require licensure.~~

113 2. Notwithstanding any other provision of law to the
114 contrary, minimum child care licensing standards shall be
115 developed to provide for reasonable, affordable, and safe
116 before-school and after-school care.

117 3. ~~After-school~~ Programs that otherwise meet the criteria
118 for exclusion from child care licensure as an after-school
119 program may provide snacks and meals through the federal
120 Afterschool Meal Program (AMP) administered by the Department of
121 Health in accordance with federal regulations and standards. The
122 Department of Health shall consider meals to be provided through
123 the AMP only if the program is actively participating in the
124 AMP, is in good standing with the department, and the meals meet
125 AMP requirements.

126 4. Standards, at a minimum, shall allow for a credentialed



127 director to supervise multiple ~~before-school~~ and after-school
128 program sites.

129 (6) SQUARE FOOTAGE PER CHILD.—Minimum standards shall be
130 established by the department by rule.

131 (a) A child care facility that holds a valid license on
132 October 1, 1992, must have a minimum of 20 square feet of usable
133 indoor floor space for each child and a minimum of 45 square
134 feet of usable outdoor play area for each child. Outdoor play
135 area shall be calculated at the rate of 45 feet per child in any
136 group using the play area at one time. A minimum play area shall
137 be provided for one half of the licensed capacity. This standard
138 applies as long as the child care facility remains licensed at
139 the site occupied on October 1, 1992, and shall not be affected
140 by any change in the ownership of the site.

141 (b)1. A child care facility that does not hold a valid
142 license on October 1, 1992, and seeks regulatory approval to
143 operate as a child care facility must have a minimum of 35
144 square feet of usable floor space for each child and a minimum
145 of 45 square feet of usable outdoor play area for each child.

146 2. A membership organization affiliated with a national
147 organization which is licensed after July 1, 2018, and before
148 June 30, 2020, for an after-school program, is exempt from
149 facility requirements related to square footage for usable
150 indoor floor space, square footage for usable outdoor play area,
151 and restroom and bath facilities. Such an organization that
152 remodels its facility or begins using a new facility on or after
153 July 1, 2020, shall meet the square footage requirements for
154 usable indoor floor space and usable outdoor play area specified
155 in subparagraph (b)1., and any restroom and bath facility



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156 requirements specified by rule.

157

158 The minimum standard for outdoor play area does not apply in
159 calculating square footage for children under 1 year of age.
160 However, appropriate outdoor infant equipment shall be
161 substituted for outdoor play space. The centers shall provide
162 facilities and equipment conducive to the physical activities
163 appropriate for the age and physical development of the child.

164

165 ===== T I T L E A M E N D M E N T =====

166 And the title is amended as follows:

167 Delete line 7

168 and insert:

169 school program"; revising definitions of the terms
170 "child care" and "child care facility"; amending s.
171 402.305, F.S.; providing exemptions from facility
172 requirements; conforming