

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: CS/SB 1492

INTRODUCER: Children, Families, and Elder Affairs and Senator Book

SUBJECT: Government-sponsored Recreation Programs

DATE: April 9, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Hendon	CF	Fav/CS
2.			GO	
3.			RC	

I. Summary:

CS/SB 1492 revises the definition of the term “child care facility” to exclude government-sponsored recreation programs. The bill allows counties or other municipalities to create and operate recreation programs for children at least five years old and requires such programs to offer 4 programming hours per day and to adopt standards of care specifying staffing ratios, minimum staff qualifications, health and safety standards, and level 2 background screening requirement for all staff and volunteers. The bill also requires such programs to notify parents of all children participating in the program that the program is not state-licensed, and the program may not advertise itself as a child care facility. The bill requires the program to provide all parents with the county or municipality’s standards of care. Finally, the bill allows government-sponsored recreation programs to obtain licensure as child-care facilities through the Department of Children and Families (DCF).

The bill may have an indeterminate fiscal impact and has an effective date of July 1, 2019.

II. Present Situation:

Child Care

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.¹

Child care is typically thought of as care and supervision for children under school age. Legislative intent related to child care finds that many parents with children under age 6 are

¹ Section 402.302, F.S.

employed outside the home.² The definition of child care does not specify a maximum or minimum age.

Florida law and administrative rules related to child care recognize that families may also have a need for care and supervision for children of school age:

- A school-age child care program is defined as any licensed child care facility serving school-aged children³ or any before and after school programs that are licensed as a child care facility and serve only school-aged children.⁴
- Any of the after school programs accepting children under the age of the school-age child must be licensed.⁵
- An after school program serving school-age children is not required to be licensed if the program provides after school care exclusively for children in grades six and above and complies with the minimum background screening requirements.⁶

Child Care Facilities

The term “child care facility” is defined to include any child care center or child care arrangement that cares for more than five children unrelated to the operator and receives a payment, fee, or grant for the children receiving care, wherever the facility is operated and whether it is operated for profit or not for profit.⁷ The definition excludes the following:

- Public schools and nonpublic schools and their integral programs, except as provided in s. 402.3025, F.S.;
- Summer camps having children in full-time residence;
- Summer day camps;
- Bible schools normally conducted during vacation periods; and
- Operators of transient establishments, as defined in chapter 509, F.S.,⁸ which provide child care services solely for the guests of their establishment or resort, provided that all child care personnel are screened according to the level 2 screening requirements of chapter 435, F.S.⁹

Every child care facility in the state is required to have a license that is renewed annually. The Department of Children and Families (DCF or department) or the local licensing agencies¹⁰ approved by the department are the entities responsible for the licensure of such child care facilities.¹¹

² *Id.*

³ Chapter 65C-22.008, F.A.C. “School-age child” means a child who is at least five years of age by September 1st of the beginning of the school year and who attends kindergarten through grade five.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ Section 402.302, F.S.

⁸ “Transient public lodging establishment” means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.

⁹ Section 402.302, F.S.

¹⁰ Currently, there are 5 counties that regulate child care programs: Broward, Hillsborough, Palm Beach, Pinellas and Sarasota.

¹¹ Section 402.308, F.S.

Additional Exemptions

In 1974 and in 1987, the legislature created additional exceptions to the stated intent to protect the health, safety, and well-being of the children by allowing specified entities to care for children without meeting state licensure standards. Child care facilities that are an integral part of church or parochial schools and meet specified criteria are exempt from licensing standards but must conduct background screening of their personnel. Failure by a facility to comply with such screening requirements shall result in the loss of the facility's exemption from licensure.¹²

III. Effect of Proposed Changes:

Section 1 amends s. 402.302, F.S., related to child care facilities, by adding a definition for "government-sponsored recreation programs." The bill defines a government-sponsored recreation program as a recreation program for school-age children that:

- offers no more than 4 hours of programming per day, however the program may extend its operating hours in order to provide services before school and on teacher planning days, holidays, and breaks that occur during the school year;
- is operated by a county or municipality that has adopted standards of care by ordinance for the program, which include, but are not limited to, staffing ratios, minimum staff qualifications, level 2 background screening, including a check of the child abuse and neglect and sexual predator registries, for all staff and volunteers, and minimum facility, health, and safety standards;
- has been certified by the county or municipality for compliance with such standards of care;
- provides notice to the parents of all participating children that the program is not state-licensed or advertised as a child care facility and provides them with the county's or municipality's standards of care; and
- Does not receive funding through the Child Care Development Block Grant of 2014, cannot contract to provide a school readiness program, and cannot have a Gold Seal Quality Care designation.

The bill exempts government-sponsored recreation programs from licensure requirements of child care facilities regulated by DCF.

Section 2 amends s. 39.201, F.S., relating to mandatory reports of child abuse, to correct a cross-reference.

Section 3 amends s. 402.305, F.S., relating to licensing standards of child care facilities, to correct a cross-reference.

Section 4 amends s. 1002.82, F.S., relating to powers and duties of the Office of Early Learning, to correct a cross-reference.

Section 5 provides an effective date of July 1, 2019.

¹² Section 402.316, F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Florida Department of Law Enforcement may be impacted through requiring level 2 background screenings for employees of government-sponsored recreation programs. FDLE, however, is authorized to collect a fee to pay for such screenings.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 402.302, 39.201, 402.305, and 1002.82 of the Florida Statutes.

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

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

CS by Children, Families, and Elder Affairs on April 8, 2019:

- The CS allows government-sponsored recreation programs to become licensed as child-care facilities by DCF if they so choose rather than making exemption mandatory.
- The CS provides that background screening of government-sponsored recreation programs must be equivalent to those used to screen employees of licensed child-care facilities.
- The CS provides that a government-sponsored recreation program may extend its operating hours in order to provide services before school and on teacher planning days, holidays, and breaks that occur during the school year.
- The CS provides that government-sponsored recreation programs may not receive funding through the Child Care Development Block Grant of 2014, cannot contract to provide a school readiness program, and cannot have a Gold Seal Quality Care designation.

B. Amendments:

None.