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1 A bill to be entitled
2 An act relating to child care facilities; amending s.
3 402.302, F.S.; revising and providing definitions;
4 providing for certain household children to be included in
5 calculations regarding the capacity of licensed family day
6 care homes and large family child care homes; providing
7 conditions for supervision of household children of
8 operators of family day care homes and large family child
9 care homes; amending s. 402.318, F.S.; revising
10 advertising requirements applicable to child care
11 facilities; providing penalties; authorizing a cause of
12 action against an unlicensed or unregistered individual if
13 certain advertising requirements are not met; authorizing
14 the award of attorney's fees and costs under certain
15 conditions; amending s. 411.01, F.S.; conforming a cross-
16 reference; providing an effective date.

17
18 Be It Enacted by the Legislature of the State of Florida:

19
20 Section 1. Section 402.302, Florida Statutes, is amended
21 to read:

22 402.302 Definitions.—As used in this chapter, the term:

23 (1) "Child care" means the care, protection, and
24 supervision of a child, for a period of less than 24 hours a day
25 on a regular basis, which supplements parental care, enrichment,
26 and health supervision for the child, in accordance with his or
27 her individual needs, and for which a payment, fee, or grant is
28 made for care.

29 (2) "Child care facility" includes any child care center
30 or child care arrangement which provides child care for more
31 than five children unrelated to the operator and which receives
32 a payment, fee, or grant for any of the children receiving care,
33 wherever operated, and whether or not operated for profit. The
34 following are not included:

35 (a) Public schools and nonpublic schools and their
36 integral programs, except as provided in s. 402.3025;

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

38 (c) Summer day camps;

39 (d) Bible schools normally conducted during vacation
40 periods; and

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

46 (3) "Child care personnel" means all owners, operators,
47 employees, and volunteers working in a child care facility. The
48 term does not include persons who work in a child care facility
49 after hours when children are not present or parents of children
50 in a child care facility. For purposes of screening, the term
51 includes any member, over the age of 12 years, of a child care
52 facility operator's family, or person, over the age of 12 years,
53 residing with a child care facility operator if the child care
54 facility is located in or adjacent to the home of the operator
55 or if the family member of, or person residing with, the child
56 care facility operator has any direct contact with the children

57 in the facility during its hours of operation. Members of the
58 operator's family or persons residing with the operator who are
59 between the ages of 12 years and 18 years are not required to be
60 fingerprinted but must be screened for delinquency records. For
61 purposes of screening, the term also includes persons who work
62 in child care programs that provide care for children 15 hours
63 or more each week in public or nonpublic schools, family day
64 care homes, or programs otherwise exempted under s. 402.316. The
65 term does not include public or nonpublic school personnel who
66 are providing care during regular school hours, or after hours
67 for activities related to a school's program for grades
68 kindergarten through 12. A volunteer who assists on an
69 intermittent basis for less than 10 hours per month is not
70 included in the term "personnel" for the purposes of screening
71 and training if a person who meets the screening requirement of
72 s. 402.305(2) is always present and has the volunteer in his or
73 her line of sight. Students who observe and participate in a
74 child care facility as a part of their required coursework are
75 not considered child care personnel, provided such observation
76 and participation are on an intermittent basis and a person who
77 meets the screening requirement of s. 402.305(2) is always
78 present and has the student in his or her line of sight.

79 (4) "Child welfare provider" means a licensed child-caring
80 or child-placing agency.

81 (5) "Department" means the Department of Children and
82 Family Services.

83 (6) "Drop-in child care" means child care provided
84 occasionally in a child care facility in a shopping mall or

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85 business establishment where a child is in care for no more than
86 a 4-hour period and the parent remains on the premises of the
87 shopping mall or business establishment at all times. Drop-in
88 child care arrangements shall meet all requirements for a child
89 care facility unless specifically exempted.

90 (7) "Evening child care" means child care provided during
91 the evening hours and may encompass the hours of 6:00 p.m. to
92 7:00 a.m. to accommodate parents who work evenings and late-
93 night shifts.

94 (8) "Family day care home" means an occupied residence in
95 which child care is regularly provided for children from at
96 least two unrelated families and which receives a payment, fee,
97 or grant for any of the children receiving care, whether or not
98 operated for profit. Household children under 13 years of age,
99 when on the premises of the family day care home or on a field
100 trip with children enrolled in child care, shall be included in
101 the overall capacity of the licensed home. A family day care
102 home shall be allowed to provide care for one of the following
103 groups of children, which shall include household ~~those~~ children
104 under 13 years of age ~~who are related to the caregiver:~~

105 (a) A maximum of four children from birth to 12 months of
106 age.

107 (b) A maximum of three children from birth to 12 months of
108 age, and other children, for a maximum total of six children.

109 (c) A maximum of six preschool children if all are older
110 than 12 months of age.

111 (d) A maximum of 10 children if no more than 5 are
112 preschool age and, of those 5, no more than 2 are under 12

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months of age.

(9) "Household children" means children who are related by blood, marriage, or legal adoption to, or who are the legal wards of, the family day care home operator, the large family child care home operator, or an adult household member who permanently or temporarily resides in the home. Supervision of the operator's household children shall be left to the discretion of the operator unless those children receive subsidized child care to be in the home.

(10) "Indoor recreational facility" means an indoor commercial facility which is established for the primary purpose of entertaining children in a planned fitness environment through equipment, games, and activities in conjunction with food service and which provides child care for a particular child no more than 4 hours on any one day. An indoor recreational facility must be licensed as a child care facility under s. 402.305, but is exempt from the minimum outdoor-square-footage-per-child requirement specified in that section, if the indoor recreational facility has, at a minimum, 3,000 square feet of usable indoor floor space.

(11) ~~(9)~~ "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. One of the two full-time child care personnel must be the owner or occupant of the residence. A large family child

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care home must first have operated as a licensed family day care home for 2 years, with an operator who has had a child development associate credential or its equivalent for 1 year, before seeking licensure as a large family child care home. Household children under 13 years of age, when on the premises of the large family child care home or on a field trip with children enrolled in child care, shall be included in the overall capacity of the licensed home. A large family child care home shall be allowed to provide care for one of the following groups of children, which shall include household ~~those~~ children under 13 years of age ~~who are related to the caregiver:~~

(a) A maximum of 8 children from birth to 24 months of age.

(b) A maximum of 12 children, with no more than 4 children under 24 months of age.

(12) ~~(11)~~ "Local licensing agency" means any agency or individual designated by the county to license child care facilities.

(13) ~~(12)~~ "Operator" means any onsite person ultimately responsible for the overall operation of a child care facility, whether or not he or she is the owner or administrator of such facility.

(14) ~~(13)~~ "Owner" means the person who is licensed to operate the child care facility.

(15) ~~(14)~~ "Screening" means the act of assessing the background of child care personnel and volunteers and includes, but is not limited to, employment history checks, local criminal records checks through local law enforcement agencies,

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169 fingerprinting for all purposes and checks in this subsection,
170 statewide criminal records checks through the Department of Law
171 Enforcement, and federal criminal records checks through the
172 Federal Bureau of Investigation.

173 (16)~~(15)~~ "Secretary" means the Secretary of Children and
174 Family Services.

175 (17)~~(16)~~ "Substantial compliance" means that level of
176 adherence which is sufficient to safeguard the health, safety,
177 and well-being of all children under care. Substantial
178 compliance is greater than minimal adherence but not to the
179 level of absolute adherence. Where a violation or variation is
180 identified as the type which impacts, or can be reasonably
181 expected within 90 days to impact, the health, safety, or well-
182 being of a child, there is no substantial compliance.

183 (18)~~(17)~~ "Weekend child care" means child care provided
184 between the hours of 6 p.m. on Friday and 6 a.m. on Monday.

185 Section 2. Section 402.318, Florida Statutes, is amended
186 to read:

187 402.318 Advertisement.—

188 (1) A ~~No~~ person, as defined in s. 1.01(3), may not ~~shall~~
189 advertise a child care facility, family day care home, or large
190 family child care home without including within such
191 advertisement the state or local agency license number or
192 registration number of such facility or home. Violation of this
193 subsection ~~section~~ is a misdemeanor of the first degree,
194 punishable as provided in s. 775.082 or s. 775.083.

195 (2) An individual or local licensing agency has a cause of
196 action against an unlicensed or unregistered individual who

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197 violates subsection (1). The court shall award the prevailing
198 party reasonable attorney's fees and costs incurred in
199 connection with a claim filed under this section.

200 Section 3. Paragraph (c) of subsection (5) of section
201 411.01, Florida Statutes, is amended to read:

202 411.01 School readiness programs; early learning
203 coalitions.—

204 (5) CREATION OF EARLY LEARNING COALITIONS.—

205 (c) Program expectations.—

206 1. The school readiness program must meet the following
207 expectations:

208 a. The program must, at a minimum, enhance the age-
209 appropriate progress of each child in attaining the performance
210 standards and outcome measures adopted by the Agency for
211 Workforce Innovation.

212 b. The program must provide extended-day and extended-year
213 services to the maximum extent possible without compromising the
214 quality of the program to meet the needs of parents who work.

215 c. The program must provide a coordinated professional
216 development system that supports the achievement and maintenance
217 of core competencies by school readiness instructors in helping
218 children attain the performance standards and outcome measures
219 adopted by the Agency for Workforce Innovation.

220 d. There must be expanded access to community services and
221 resources for families to help achieve economic self-
222 sufficiency.

223 e. There must be a single point of entry and unified
224 waiting list. As used in this sub-subparagraph, the term "single

point of entry" means an integrated information system that allows a parent to enroll his or her child in the school readiness program at various locations throughout a county, that may allow a parent to enroll his or her child by telephone or through an Internet website, and that uses a unified waiting list to track eligible children waiting for enrollment in the school readiness program. The Agency for Workforce Innovation shall establish through technology a single statewide information system that each coalition must use for the purposes of managing the single point of entry, tracking children's progress, coordinating services among stakeholders, determining eligibility, tracking child attendance, and streamlining administrative processes for providers and early learning coalitions.

f. The Agency for Workforce Innovation must consider the access of eligible children to the school readiness program, as demonstrated in part by waiting lists, before approving a proposed increase in payment rates submitted by an early learning coalition. In addition, early learning coalitions shall use school readiness funds made available due to enrollment shifts from school readiness programs to the Voluntary Prekindergarten Education Program for increasing the number of children served in school readiness programs before increasing payment rates.

g. The program must meet all state licensing guidelines, where applicable.

h. The program must ensure that minimum standards for child discipline practices are age-appropriate. Such standards

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must provide that children not be subjected to discipline that is severe, humiliating, or frightening or discipline that is associated with food, rest, or toileting. Spanking or any other form of physical punishment is prohibited.

2. Each early learning coalition must implement a comprehensive program of school readiness services in accordance with the rules adopted by the agency which enhance the cognitive, social, and physical development of children to achieve the performance standards and outcome measures. At a minimum, these programs must contain the following system support service elements:

a. Developmentally appropriate curriculum designed to enhance the age-appropriate progress of children in attaining the performance standards adopted by the Agency for Workforce Innovation under subparagraph (4)(d)8.

b. A character development program to develop basic values.

c. An age-appropriate screening of each child's development.

d. An age-appropriate assessment administered to children when they enter a program and an age-appropriate assessment administered to children when they leave the program.

e. An appropriate staff-to-children ratio, pursuant to s. 402.305(4) or s. 402.302(8) or (11) ~~(7) or (8)~~, as applicable, and as verified pursuant to s. 402.311.

f. A healthy and safe environment pursuant to s. 401.305(5), (6), and (7), as applicable, and as verified pursuant to s. 402.311.

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g. A resource and referral network established under s. 411.0101 to assist parents in making an informed choice and a regional Warm-Line under s. 411.01015.

The Agency for Workforce Innovation, the Department of Education, and early learning coalitions shall coordinate with the Child Care Services Program Office of the Department of Children and Family Services to minimize duplicating interagency activities pertaining to acquiring and composing data for child care training and credentialing.

Section 4. This act shall take effect July 1, 2011.