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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; amending s. 411.01, F.S.;  
12      conforming a cross-reference; providing an effective date.

13  
14   Be It Enacted by the Legislature of the State of Florida:

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16       Section 1.   Section 402.302, Florida Statutes, is amended  
17   to read:

18       402.302   Definitions.—As used in this chapter, the term:

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

25       (2)   "Child care facility" includes any child care center  
26   or child care arrangement which provides child care for more  
27   than five children unrelated to the operator and which receives  
28   a payment, fee, or grant for any of the children receiving care,

29 | wherever operated, and whether or not operated for profit. The  
30 | following are not included:

- 31 |       (a) Public schools and nonpublic schools and their  
32 | integral programs, except as provided in s. 402.3025;  
33 |       (b) Summer camps having children in full-time residence;  
34 |       (c) Summer day camps;  
35 |       (d) Bible schools normally conducted during vacation  
36 | periods; and  
37 |       (e) Operators of transient establishments, as defined in  
38 | chapter 509, which provide child care services solely for the  
39 | guests of their establishment or resort, provided that all child  
40 | care personnel of the establishment are screened according to  
41 | the level 2 screening requirements of chapter 435.
- 42 |       (3) "Child care personnel" means all owners, operators,  
43 | employees, and volunteers working in a child care facility. The  
44 | term does not include persons who work in a child care facility  
45 | after hours when children are not present or parents of children  
46 | in a child care facility. For purposes of screening, the term  
47 | includes any member, over the age of 12 years, of a child care  
48 | facility operator's family, or person, over the age of 12 years,  
49 | residing with a child care facility operator if the child care  
50 | facility is located in or adjacent to the home of the operator  
51 | or if the family member of, or person residing with, the child  
52 | care facility operator has any direct contact with the children  
53 | in the facility during its hours of operation. Members of the  
54 | operator's family or persons residing with the operator who are  
55 | between the ages of 12 years and 18 years are not required to be  
56 | fingerprinted but must be screened for delinquency records. For

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

75 |       (4) "Child welfare provider" means a licensed child-caring  
76 | or child-placing agency.

77 |       (5) "Department" means the Department of Children and  
78 | Family Services.

79 |       (6) "Drop-in child care" means child care provided  
80 | occasionally in a child care facility in a shopping mall or  
81 | business establishment where a child is in care for no more than  
82 | a 4-hour period and the parent remains on the premises of the  
83 | shopping mall or business establishment at all times. Drop-in  
84 | child care arrangements shall meet all requirements for a child

care facility unless specifically exempted.

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

(8) "Family day care home" means 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. Household children under 13 years of age, when on the premises of the family day 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 family day 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 four children from birth to 12 months of age.

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

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

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

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113 child care home operator, or an adult household member who  
114 permanently or temporarily resides in the home. Supervision of  
115 the operator's household children shall be left to the  
116 discretion of the operator unless those children receive  
117 subsidized child care through the School Readiness Program  
118 pursuant to s. 411.0101 to be in the home.

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

130 (11) ~~(9)~~ "Large family child care home" means an occupied  
131 residence in which child care is regularly provided for children  
132 from at least two unrelated families, which receives a payment,  
133 fee, or grant for any of the children receiving care, whether or  
134 not operated for profit, and which has at least two full-time  
135 child care personnel on the premises during the hours of  
136 operation. One of the two full-time child care personnel must be  
137 the owner or occupant of the residence. A large family child  
138 care home must first have operated as a licensed family day care  
139 home for 2 years, with an operator who has had a child  
140 development associate credential or its equivalent for 1 year,

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141 before seeking licensure as a large family child care home.  
142 Household children under 13 years of age, when on the premises  
143 of the large family child care home or on a field trip with  
144 children enrolled in child care, shall be included in the  
145 overall capacity of the licensed home. A large family child care  
146 home shall be allowed to provide care for one of the following  
147 groups of children, which shall include household ~~those~~ children  
148 under 13 years of age ~~who are related to the caregiver:~~

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

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

153 (12) ~~(11)~~ "Local licensing agency" means any agency or  
154 individual designated by the county to license child care  
155 facilities.

156 (13) ~~(12)~~ "Operator" means any onsite person ultimately  
157 responsible for the overall operation of a child care facility,  
158 whether or not he or she is the owner or administrator of such  
159 facility.

160 (14) ~~(13)~~ "Owner" means the person who is licensed to  
161 operate the child care facility.

162 (15) ~~(14)~~ "Screening" means the act of assessing the  
163 background of child care personnel and volunteers and includes,  
164 but is not limited to, employment history checks, local criminal  
165 records checks through local law enforcement agencies,  
166 fingerprinting for all purposes and checks in this subsection,  
167 statewide criminal records checks through the Department of Law  
168 Enforcement, and federal criminal records checks through the

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Federal Bureau of Investigation.

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

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

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

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

402.318 Advertisement.—A No person, as defined in s. 1.01(3), may not shall advertise a child care facility, family day care home, or large family child care home without including within such advertisement the state or local agency license number or registration number of such facility or home. Violation of this section is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

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

411.01 School readiness programs; early learning coalitions.—

(5) CREATION OF EARLY LEARNING COALITIONS.—

(c) Program expectations.—

197           1. The school readiness program must meet the following  
198 expectations:

199           a. The program must, at a minimum, enhance the age-  
200 appropriate progress of each child in attaining the performance  
201 standards and outcome measures adopted by the Agency for  
202 Workforce Innovation.

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

206           c. The program must provide a coordinated professional  
207 development system that supports the achievement and maintenance  
208 of core competencies by school readiness instructors in helping  
209 children attain the performance standards and outcome measures  
210 adopted by the Agency for Workforce Innovation.

211           d. There must be expanded access to community services and  
212 resources for families to help achieve economic self-  
213 sufficiency.

214           e. There must be a single point of entry and unified  
215 waiting list. As used in this sub-subparagraph, the term "single  
216 point of entry" means an integrated information system that  
217 allows a parent to enroll his or her child in the school  
218 readiness program at various locations throughout a county, that  
219 may allow a parent to enroll his or her child by telephone or  
220 through an Internet website, and that uses a unified waiting  
221 list to track eligible children waiting for enrollment in the  
222 school readiness program. The Agency for Workforce Innovation  
223 shall establish through technology a single statewide  
224 information system that each coalition must use for the purposes



225 of managing the single point of entry, tracking children's  
226 progress, coordinating services among stakeholders, determining  
227 eligibility, tracking child attendance, and streamlining  
228 administrative processes for providers and early learning  
229 coalitions.

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

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

242 h. The program must ensure that minimum standards for  
243 child discipline practices are age-appropriate. Such standards  
244 must provide that children not be subjected to discipline that  
245 is severe, humiliating, or frightening or discipline that is  
246 associated with food, rest, or toileting. Spanking or any other  
247 form of physical punishment is prohibited.

248 2. Each early learning coalition must implement a  
249 comprehensive program of school readiness services in accordance  
250 with the rules adopted by the agency which enhance the  
251 cognitive, social, and physical development of children to  
252 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.

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

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281 | care training and credentialing.

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