

1 A bill to be entitled

2 An act relating to child care facilities; amending s.
3 402.281, F.S.; revising the criteria for a child care
4 facility, large family child care home, or family day care
5 home to obtain and maintain a designation as a Gold Seal
6 Quality Care provider; amending s. 402.302, F.S.; revising
7 and providing definitions; providing for certain household
8 children to be included in calculations regarding the
9 capacity of licensed family day care homes and large
10 family child care homes; providing conditions for
11 supervision of household children of operators of family
12 day care homes and large family child care homes;
13 providing guidelines for the calculation of usable floor
14 space; amending s. 402.318, F.S.; revising advertising
15 requirements applicable to child care facilities;
16 providing penalties; amending s. 411.01, F.S.; conforming
17 a cross-reference; providing an effective date.

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

20
21 Section 1. Paragraph (c) of subsection (4) of section
22 402.281, Florida Statutes, is amended to read:

23 402.281 Gold Seal Quality Care program.—

24 (4) In order to obtain and maintain a designation as a
25 Gold Seal Quality Care provider, a child care facility, large
26 family child care home, or family day care home must meet the
27 following additional criteria:

28 (c) The child care provider must not have been cited for

CS/CS/HB 139

2011

29 the same class III violation, as defined by rule, three or more
30 times and failed to correct the violation within 1 year after
31 the date of each citation, within the 2 years preceding its
32 application for designation as a Gold Seal Quality Care
33 provider. Commission of the same class III violation three or
34 more times and failure to correct within the required time
35 during a 2-year period may ~~shall~~ be grounds for termination of
36 the designation as a Gold Seal Quality Care provider until the
37 provider has no class III violations for a period of 1 year.

38 Section 2. Section 402.302, Florida Statutes, is amended
39 to read:

40 402.302 Definitions.—As used in this chapter, the term:

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

47 (2) "Child care facility" includes any child care center
48 or child care arrangement which provides child care for more
49 than five children unrelated to the operator and which receives
50 a payment, fee, or grant for any of the children receiving care,
51 wherever operated, and whether or not operated for profit. The
52 following are not included:

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

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

56 (c) Summer day camps;

57 (d) Bible schools normally conducted during vacation
58 periods; and

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

64 (3) "Child care personnel" means all owners, operators,
65 employees, and volunteers working in a child care facility. The
66 term does not include persons who work in a child care facility
67 after hours when children are not present or parents of children
68 in a child care facility. For purposes of screening, the term
69 includes any member, over the age of 12 years, of a child care
70 facility operator's family, or person, over the age of 12 years,
71 residing with a child care facility operator if the child care
72 facility is located in or adjacent to the home of the operator
73 or if the family member of, or person residing with, the child
74 care facility operator has any direct contact with the children
75 in the facility during its hours of operation. Members of the
76 operator's family or persons residing with the operator who are
77 between the ages of 12 years and 18 years are not required to be
78 fingerprinted but must be screened for delinquency records. For
79 purposes of screening, the term also includes persons who work
80 in child care programs that provide care for children 15 hours
81 or more each week in public or nonpublic schools, family day
82 care homes, or programs otherwise exempted under s. 402.316. The
83 term does not include public or nonpublic school personnel who
84 are providing care during regular school hours, or after hours

85 for activities related to a school's program for grades
86 kindergarten through 12. A volunteer who assists on an
87 intermittent basis for less than 10 hours per month is not
88 included in the term "personnel" for the purposes of screening
89 and training if a person who meets the screening requirement of
90 s. 402.305(2) is always present and has the volunteer in his or
91 her line of sight. Students who observe and participate in a
92 child care facility as a part of their required coursework are
93 not considered child care personnel, provided such observation
94 and participation are on an intermittent basis and a person who
95 meets the screening requirement of s. 402.305(2) is always
96 present and has the student in his or her line of sight.

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

99 (5) "Department" means the Department of Children and
100 Family Services.

101 (6) "Drop-in child care" means child care provided
102 occasionally in a child care facility in a shopping mall or
103 business establishment where a child is in care for no more than
104 a 4-hour period and the parent remains on the premises of the
105 shopping mall or business establishment at all times. Drop-in
106 child care arrangements shall meet all requirements for a child
107 care facility unless specifically exempted.

108 (7) "Evening child care" means child care provided during
109 the evening hours and may encompass the hours of 6:00 p.m. to
110 7:00 a.m. to accommodate parents who work evenings and late-
111 night shifts.

112 (8) "Family day care home" means an occupied residence in

CS/CS/HB 139

2011

113 which child care is regularly provided for children from at
114 least two unrelated families and which receives a payment, fee,
115 or grant for any of the children receiving care, whether or not
116 operated for profit. Household children under 13 years of age,
117 when on the premises of the family day care home or on a field
118 trip with children enrolled in child care, shall be included in
119 the overall capacity of the licensed home. A family day care
120 home shall be allowed to provide care for one of the following
121 groups of children, which shall include household ~~those~~ children
122 under 13 years of age ~~who are related to the caregiver:~~

123 (a) A maximum of four children from birth to 12 months of
124 age.

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

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

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

132 (9) "Household children" means children who are related by
133 blood, marriage, or legal adoption to, or who are the legal
134 wards of, the family day care home operator, the large family
135 child care home operator, or an adult household member who
136 permanently or temporarily resides in the home. Supervision of
137 the operator's household children shall be left to the
138 discretion of the operator unless those children receive
139 subsidized child care through the School Readiness Program
140 pursuant to s. 411.0101 to be in the home.

CS/CS/HB 139

2011

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

152 ~~(11)(9)~~ "Large family child care home" means an occupied
153 residence in which child care is regularly provided for children
154 from at least two unrelated families, which receives a payment,
155 fee, or grant for any of the children receiving care, whether or
156 not operated for profit, and which has at least two full-time
157 child care personnel on the premises during the hours of
158 operation. One of the two full-time child care personnel must be
159 the owner or occupant of the residence. A large family child
160 care home must first have operated as a licensed family day care
161 home for 2 years, with an operator who has had a child
162 development associate credential or its equivalent for 1 year,
163 before seeking licensure as a large family child care home.
164 Household children under 13 years of age, when on the premises
165 of the large family child care home or on a field trip with
166 children enrolled in child care, shall be included in the
167 overall capacity of the licensed home. A large family child care
168 home shall be allowed to provide care for one of the following

CS/CS/HB 139

2011

169 groups of children, which shall include household ~~those~~ children
170 under 13 years of age ~~who are related to the caregiver~~:

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

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

175 (12)~~(11)~~ "Local licensing agency" means any agency or
176 individual designated by the county to license child care
177 facilities.

178 (13)~~(12)~~ "Operator" means any onsite person ultimately
179 responsible for the overall operation of a child care facility,
180 whether or not he or she is the owner or administrator of such
181 facility.

182 (14)~~(13)~~ "Owner" means the person who is licensed to
183 operate the child care facility.

184 (15)~~(14)~~ "Screening" means the act of assessing the
185 background of child care personnel and volunteers and includes,
186 but is not limited to, employment history checks, local criminal
187 records checks through local law enforcement agencies,
188 fingerprinting for all purposes and checks in this subsection,
189 statewide criminal records checks through the Department of Law
190 Enforcement, and federal criminal records checks through the
191 Federal Bureau of Investigation.

192 (16)~~(15)~~ "Secretary" means the Secretary of Children and
193 Family Services.

194 (17)~~(16)~~ "Substantial compliance" means that level of
195 adherence which is sufficient to safeguard the health, safety,
196 and well-being of all children under care. Substantial

CS/CS/HB 139

2011

197 compliance is greater than minimal adherence but not to the
198 level of absolute adherence. Where a violation or variation is
199 identified as the type which impacts, or can be reasonably
200 expected within 90 days to impact, the health, safety, or well-
201 being of a child, there is no substantial compliance.

202 (18) "Usable floor space" means the total available floor
203 space for the facility as a whole, minus space for stairways,
204 toilet and bath facilities, permanent fixtures, kitchens,
205 offices, laundry rooms, storage areas, hallways, or other areas
206 not used in the normal day-to-day operation of a child care
207 facility. For the purpose of calculating the usable floor space
208 for each child required under s. 402.305(6), the total available
209 floor space of the facility, and not of each room, shall be
210 used.

211 (19)~~(17)~~ "Weekend child care" means child care provided
212 between the hours of 6 p.m. on Friday and 6 a.m. on Monday.

213 Section 3. Section 402.318, Florida Statutes, is amended
214 to read:

215 402.318 Advertisement.—A No person, as defined in s.
216 1.01(3), may not shall advertise a child care facility, family
217 day care home, or large family child care home without including
218 within such advertisement the state or local agency license
219 number or registration number of such facility or home.
220 Violation of this section is a misdemeanor of the first degree,
221 punishable as provided in s. 775.082 or s. 775.083.

222 Section 4. Paragraph (c) of subsection (5) of section
223 411.01, Florida Statutes, is amended to read:

224 411.01 School readiness programs; early learning

225 coalitions.—

226 (5) CREATION OF EARLY LEARNING COALITIONS.—

227 (c) Program expectations.—

228 1. The school readiness program must meet the following
229 expectations:

230 a. The program must, at a minimum, enhance the age-
231 appropriate progress of each child in attaining the performance
232 standards and outcome measures adopted by the Agency for
233 Workforce Innovation.

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

237 c. The program must provide a coordinated professional
238 development system that supports the achievement and maintenance
239 of core competencies by school readiness instructors in helping
240 children attain the performance standards and outcome measures
241 adopted by the Agency for Workforce Innovation.

242 d. There must be expanded access to community services and
243 resources for families to help achieve economic self-
244 sufficiency.

245 e. There must be a single point of entry and unified
246 waiting list. As used in this sub-subparagraph, the term "single
247 point of entry" means an integrated information system that
248 allows a parent to enroll his or her child in the school
249 readiness program at various locations throughout a county, that
250 may allow a parent to enroll his or her child by telephone or
251 through an Internet website, and that uses a unified waiting
252 list to track eligible children waiting for enrollment in the

CS/CS/HB 139

2011

253 school readiness program. The Agency for Workforce Innovation
254 shall establish through technology a single statewide
255 information system that each coalition must use for the purposes
256 of managing the single point of entry, tracking children's
257 progress, coordinating services among stakeholders, determining
258 eligibility, tracking child attendance, and streamlining
259 administrative processes for providers and early learning
260 coalitions.

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

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

273 h. The program must ensure that minimum standards for
274 child discipline practices are age-appropriate. Such standards
275 must provide that children not be subjected to discipline that
276 is severe, humiliating, or frightening or discipline that is
277 associated with food, rest, or toileting. Spanking or any other
278 form of physical punishment is prohibited.

279 2. Each early learning coalition must implement a
280 comprehensive program of school readiness services in accordance

281 with the rules adopted by the agency which enhance the
282 cognitive, social, and physical development of children to
283 achieve the performance standards and outcome measures. At a
284 minimum, these programs must contain the following system
285 support service elements:

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

290 b. A character development program to develop basic
291 values.

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

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

297 e. An appropriate staff-to-children ratio, pursuant to s.
298 402.305(4) or s. 402.302(8) or (11)~~(7) or (8)~~, as applicable,
299 and as verified pursuant to s. 402.311.

300 f. A healthy and safe environment pursuant to s.
301 401.305(5), (6), and (7), as applicable, and as verified
302 pursuant to s. 402.311.

303 g. A resource and referral network established under s.
304 411.0101 to assist parents in making an informed choice and a
305 regional Warm-Line under s. 411.01015.

306
307 The Agency for Workforce Innovation, the Department of
308 Education, and early learning coalitions shall coordinate with

CS/CS/HB 139

2011

309 the Child Care Services Program Office of the Department of
310 Children and Family Services to minimize duplicating interagency
311 activities pertaining to acquiring and composing data for child
312 care training and credentialing.

313 Section 5. This act shall take effect July 1, 2011.