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**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE
COUNCIL FOR HEALTHY COMMUNITIES
ANALYSIS**

BILL #: CS/CS/HB 179

RELATING TO: Child Care Facilities

SPONSOR(S): Committee on Information Technology, Child & Family Security Committee and Representative Lynn

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) CHILD & FAMILY SECURITY YEAS 9 NAYS 0
- (2) INFORMATION TECHNOLOGY YEAS 8 NAYS 0
- (3) COUNCIL FOR HEALTHY COMMUNITIES YEAS 13 NAYS 0
- (4)
- (5)

I. SUMMARY:

Several provisions of Florida Statute require the Department of Children & Families (DCF) to collect child care data and maintain a child care information system. In addition requirements already exist in law that require DCF to make available to the public child care information, including information on violations and penalties imposed for not meeting child care standards. However, the current DCF child care information system does not adequately meet this charge. The lack of an adequate management information system and data collection strategy or effort appears to be an obstacle for the department in enforcing these laws and informing the public.

Committee Substitute for Committee Substitute for House Bill 179 requires DCF to establish and maintain a database of information that compiles all district information relating to violations, citations, and penalties imposed against child care facilities. The State Technology Office would be required to design the database and DCF would be tasked with implementing the database. The information in the database must be made available to the public upon request. This bill amends s. 402.3055(1)(a), F.S., requiring the applicant, owner, or operator of a child care facility to sign an affidavit attesting to the accuracy of the information requested pursuant to 402.3055, F.S. In addition, the bill requires the department or local licensing agency to validate the information provided. This bill also requires the department to establish and impose uniform penalties for infractions and violations.

The bill would also eliminate a requirement under s. 409.146, F.S. that the DCF provide an annual report to the Joint Information Technology Resources Committee because the committee no longer exists.

The \$2.6 million cost estimates for this bill by DCF are based on the establishment of a total child care management information system, which would include among other capabilities maintaining a data base on violations, citations and penalties involving child care facilities.

SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---------|--------|---------|
| 1. <u>Less Government</u> | Yes [] | No [] | N/A [x] |
| 2. <u>Lower Taxes</u> | Yes [] | No [] | N/A [x] |
| 3. <u>Individual Freedom</u> | Yes [] | No [] | N/A [x] |
| 4. <u>Personal Responsibility</u> | Yes [] | No [] | N/A [x] |
| 5. <u>Family Empowerment</u> | Yes [x] | No [] | N/A [] |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Current Law

Several provisions of Florida Statute require the department of Children & Families (DCF) to collect child care data and maintain a child care information system. In addition, requirements already exist in law that requires DCF to make available to the public child care information, including information on violations and penalties imposed for not meeting child care standards. However, the current DCF child care information system does not adequately meet this charge (see OPPAGA's findings regarding the current child care information system). According to DCF, they are in the initial stages of establishing a new child care licensing information system.

In 1990, s. 409.146, F.S., was created to require the Department of Children & Family Services (DCF) to maintain information on all child care and child welfare programs.

Section 402.307(5), F.S., requires each local licensing agency to report annually to the department the number of child care facilities under its jurisdiction, the number of children served, the ages of children served, and the number of revocations or denials of licenses to ensure that accurate statistical data are available.

Section 402.313(7), F.S., requires the department to evaluate the registration and licensure system for family day care homes annually. It requires DCF to report on an annual basis:

- The number of family day care homes registered and licensed and the dates of such registration and licensure.
- The number of children being served in both registered and licensed family day care homes and any available slots in such homes.
- The number of complaints received concerning family day care, the nature of the complaints, and the resolution of such complaints.
- The training activities utilized by child care personnel in family day care homes for meeting the state or local training requirements

Section 402.3125, F.S., requires that a license to operate a child care facility be displayed in a conspicuous place within the facility. Its also requires that, in addition to posting the license, the

child care facility must post with the license each citation for a violation of any standard or requirement of ss. 402.301-402.319, F.S., that has resulted in disciplinary action under s. 402.310 or s. 402.312, F.S. Further, the law requires that each citation, explanation, and description of corrective action must remain posted for 1 year after the citation's effective date.

Section 402.3055, F.S., requires that the application for a child care license contain a question that specifically asks the applicant, owner, or operator if he or she has ever had a license denied, revoked, or suspended in any state or jurisdiction, or has been the subject of a disciplinary action or been fined while employed in a child care facility *“The applicant, owner, or operator must attest to the accuracy of the information requested under penalty of perjury. If the applicant, owner, or operator admits that he or she has been a party in such action, the department or local licensing agency must review the nature of the suspension, revocation, disciplinary action, or fine before granting the applicant a license to operate a child care facility. If the department or local licensing agency determines as the result of such review that it is not in the best interest of the state or local jurisdiction for the applicant to be licensed, a license shall not be granted.”* This provision prevents owners or operators from opening new child care centers that have a history of violations in other child care centers. However, it relies solely on the applicant’s self disclosure.

Current DCF Child Care Data Collection System

According to the department the current system, the Correspondence And Projects Tracking System (CAPTS), is very limited as it was originally designed to be a correspondence assignment and project tracking system. The following are departmental requirements regarding to data collection (CF Pamphlet 175-2):

- Compile statistical data relating to all child care facilities in Florida, including data from the local licensing authority, which is submitted to the department.
- Maintain information in the CAPTS). The data is collected on Form CF-FSP Form 5018 which is used to record new facilities or homes and to update the status of the child care facilities, family day care homes and large family child care homes.
- Collect and enter information into the system on an on-going basis by both the department and by the local licensing agencies.
- Keep records current.

According to the department, CAPTS has the following reports and potential uses:

- **MONTHLY REPORT:** Reports, by district, the child care facilities, family day care homes, large family child care homes statistical information entered into the system for use by the supervisor, other agencies and as requested.
- **MAILING LABELS:** Generated and disseminated, upon request.
- **DIRECTORY OF CHILD CARE FACILITIES:** Provides a directory of information about facilities, family day care homes, large family child care homes for use by the district (local licensing agencies, R&R) when parents inquire about facilities.
- **90-DAY RENEWAL LIST:** Provides a method of alerting the counselor 90 days prior to re-licensing for the child care facilities, family day care homes and large family child care homes which require renewal. Overdue dates are also generated.
- **AGGREGATE DATA LIST:** Provides a list of the number of licensed facilities, those who have subsidized day care slots, types and kinds of facilities and the services provided.

For family child care homes, the department uses the CAPTS system to collect the following data in each county and district: name, address, number of homes licensed and/or registered in each county and district, and capacity. This is not all the information required by s. 402.313(7), F.S., as described above. Furthermore, the department notes in the pamphlet "*Evaluations not currently required. May be required in the future at the direction of the Florida Legislature.*" This is not consistent with provisions under s. 402.313(7), F.S.

For large family child care homes, the department uses the CAPTS system to collect the same data it collects for Family Child Care Homes.

For all child care facilities the department collects the following information: transaction code (new, change, or delete), name, address, telephone, owner's name, hours, control number, district, county, type of program, license agency, license number, license status, funding source, services, and capacity. Deficiencies need to be reported; however, this is done only by letter codes which are not specific.

According to the department other data collection responsibilities include: "A Quarterly Child Care Licensing Report generated by each district child care licensing office and forwarded electronically to the department's central office in Tallahassee by the 25th of the month following the end of the quarter. The information captures data for the counties that are licensed by the Department of Children and Families only. This data may be used as a district management tool, in addition to providing the necessary data for statewide roll-up statistics for the program office, department and Legislature. Local licensing agencies have also agreed to provide the department with a Quarterly Child Care Local Licensing Report, which is forwarded electronically to the department's central office in Tallahassee by the 25th of the month that follows the end of the quarter. The information captures data for those nine (9) counties that are licensed locally."

OPPAGA's Child Care Program Justification Review

In their November 2000 Child Care Program justification review, OPPAGA identified the department's information systems as one of their primary deficiencies because they provide insufficient information to make informed policy and management decisions.

"A second weakness in the program's enforcement activities is that it lacks adequate statewide information on licensing and enforcement actions. This is important because program managers and the Legislature cannot make informed decisions about the program's effectiveness unless they have such information. Specifically,

- *The program lacks accurate and complete data on enforcement actions it imposes when it finds violations of program standards because districts do not report all violations they detect or enforcement sanctions they impose to the central office;*
- *The program lacks a comprehensive data system to collect enforcement data; and*
- *The program does not analyze enforcement data about family child care homes it registers, those that are required to be registered but are not, and child care centers and homes regulated by local licensing authorities."*

According to OPPAGA, the DCF child care program lacks accurate information about what violations of program standards are occurring and what sanctions are being imposed. The program current licensing data system is limited and it does not include enforcement information. This data system is not unified.

“A related problem is that the program lacks a comprehensive, unified system for gathering statewide licensing enforcement and compliance data. The program’s current licensing data system, the Correspondence and Project Tracking System (CAPTS), includes only limited and inaccurate information. CAPTS has the capacity to track license and registration due dates and basic demographic information about child care providers, but does not track enforcement and compliance information. As a result, the central office does not have comprehensive enforcement information, and most data on violations and enforcement actions is maintained only at the district level. Some districts have developed their own automated information systems to maintain this data, while others continue to rely on manual paper records. To address this problem, the department’s central office is developing a proposal to fund development of an enhanced statewide information system using Child Care and Development Fund (CCDF) grants. The program has neither estimated the cost of the system nor determined the projected implementation date.”

In addition, OPPAGA, recommended that the child care licensing program develop a statewide licensing data system *“To improve the accuracy and completeness of program licensing and enforcement data, we recommend that the department continue to pursue developing an automated statewide licensing data system for the Child Care Program. The enhanced system should include basic demographic information about all regulated child care providers, as well as specific information about inspections, complaints, violations, and enforcement actions”*.

Based OPPAGA’s review, DCF child care program does not analyze enforcement data about family child care homes it registers, those that are required to be registered but are not, and child care arrangements regulated by local licensing authorities. During interviews with licensing staff in all 15 districts, OPPAGA found that there is concern about the quality of care in family child care homes.

“Although s. 402.313 (7), Florida Statutes, requires the department to conduct an annual study of the registration and licensure system for family child care homes, central program office staff report that the study has not been completed in at least eight years. The Legislature exempted the program from completing the evaluation for Fiscal Year 1992-93, and the program office has not completed one since. If program managers had the study, as well as additional information about enforcement actions taken against registered homes and rates of verified incidents of abuse and neglect within registered homes, they could report to the Legislature whether the regulation of registered homes is adequate to ensure the safety of children cared for in these settings. Similarly, although district licensing specialists believe that many family child care homes that legally should be registered fail to apply for registration, the program does not compile data collected by the districts related to these providers. Without registration, the state cannot ensure that these homes meet minimum health and safety standards and that child care providers receive background screening and department-sponsored training. Half of the district licensing specialists we interviewed asserted that the illegal operation of unregistered family child care homes was prevalent or very prevalent within their districts. District staff identifies illegal operations primarily by investigating complaints.

OPPAGA also recommended that the program should complete the mandatory annual evaluation of the family child care homes pursuant to s. 402.313, F.S. *“To determine if concerns about the quality and safety of registered family child care homes are valid, we recommend that the program conduct the statutorily mandated evaluation of the family child care home licensure and registration system required by s. 402.313(7), Florida Statutes, and inform the Legislature of its findings.”*

OPPAGA further recommended that local licensing should report enforcement actions data in their annual reports. *“...The program lacks comprehensive data about regulated child care*

centers and homes, because it collects limited information on the facilities regulated by local government licensing agencies. Section 402.307(5), Florida Statutes, requires each local licensing agency to report annually to the department the number of child care providers under its jurisdiction, the number of children served, the ages of the children served, and the number of revocations or denials of licenses. However, the department does not collect information on the number and types of violations detected by the local licensing agencies or the other types of sanctions imposed by these agencies. This information could likely be readily reported by the local governments, which would provide the department and the Legislature with more complete data on the effectiveness of the current statutory requirements in ensuring that children in regulated child care facilities are receiving safe and high quality care.”

According to OPPAGA, one of the primary deficiencies in the child care program is that districts use inconsistent practices when classifying violations and issuing provisional licenses “ *The department enforcement policies for child care regulations are not applied consistently across the department’s district offices. Specifically, districts do not consistently classify violations or issue provisional licenses. These problems are important, as inconsistent enforcement actions lead to inequitable treatment of facility operators who commit similar violations as well as failure to take appropriate actions to ensure that violations are corrected.”*

Channel 2 News Orlando Investigative Report

Channel 2 news, an NBC affiliate in Orlando, presented a two-part investigative story during the fall of 2000 regarding standards and rule violations by numerous child care facilities in the Orlando area. The investigative report found:

- numerous violations--many resulting in fines;
- many child care centers had repeat violations and fines;
- lack of parental knowledge regarding the violations and fines that had been levied against the child care centers where they took their children;
- that although DCF regularly inspected child care centers and levied fines when necessary, DCF did not provide summary information concerning these violations in a useful form for department licensing staff or parents; and
- some owners with a history of violations often establish new facilities with no tracking of previous violations by the owner.

Channel 2 put the information on violations on their web site for public access.

Laws are in place to address the concerns of the Channel 2 report. It appears that these laws are not being enforced or not implemented fully. However, the lack of an adequate management information system and data collection strategy, or effort in this regard, is an obstacle to the department’s ability to enforce these laws and to informing the public.

C. EFFECT OF PROPOSED CHANGES:

Committee Substitute for House Bill 179 requires DCF to establish and maintain a database of information that compiles all district information relating to violations, citations, and penalties imposed against child care facilities.

D. SECTION-BY-SECTION ANALYSIS:

Section 1.

Amends s. 402.3055(1)(a), F.S., requiring the applicant, owner, or operator of a child care facility to sign an affidavit attesting to the accuracy of the information requested pursuant to 402.3055, F.S. In addition, it requires the department or local licensing agency to validate the information provided.

Section 2.

Requires the department to establish and maintain a database and records to identify and locate violations, citations, and penalties imposed against child care facilities.

The database must maintain and produce statistical reports monitoring patterns of violations, citations, and penalties, including the classes and types of violations, and any actions taken to suspend or revoke the license of a child care facility.

The bill allows the information in the database to serve as a resource for the evaluation of child care facilities and for license renewal, but may not be used for employment screening.

The information in the database must be made available to the public upon request.

Section 3.

Requires the department to establish and impose uniform penalties for infractions and violations.

Section 4.

Subsection (9) of section 409.146, F.S., currently requires the DCF to provide an annual report to the Joint Information Technology Resources Committee of the Legislature. Because the committee no longer exists, the bill would remove this requirement. However, DCF would still be required to submit the same report to the appropriate substantive and appropriations committees in the Legislature.

Section 5.

Provides that the bill become effective upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

AMOUNT	AMOUNT	AMOUNT	AMOUNT
YEAR 1	YEAR 2	YEAR 3	YEAR 5
(FY 2000-2001)	(FY 2001-2002)	(FY 2002-2003)	(FY 2005-2006)

FISCAL IMPACT ON STATE
AGENCIES/STATE FUNDS:

A.	Non-recurring or First-Year Start-Up Effects:	1.3 million	1.3 million		
B.	Recurring or Annualized Continuation Effects:	1.3 million	1.3 million	\$250,000	\$250,000
C.	Long-Run Effects Other Than Normal Growth:				\$336,600
D.	Appropriations Consequences	2.6 Million	2.6 million	\$250,000	\$586,600

The above estimates are based on DCF calculations of cost in their bill analysis of CS/HB 179.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

The \$2.6 million cost estimates for this bill by DCF are based on the establishment of a total child care management information system, which would include maintaining a data base on violations, citations and penalties involving family day care homes and child care centers.

III. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill will not reduce the authority of municipalities and counties to raise revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill will not reduce the state tax shared with counties and municipalities.

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

The bill does not provide rule-making authority to the department to implement proposed legislation.

C. OTHER COMMENTS:

N/A

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Child and Family Security Committee: On February 22, 2001, three amendments to HB 179 were adopted and the sponsor elected to have the amendments incorporated as a committee substitute.

Amendment #1:

Creates a new section in F.S., s. 402.3071, for the provisions in the bill.

Amendment #2:

Amends s. 402.3055(1)(a), F.S. Requires applicant, owner, or operator of a child care facility to sign an affidavit attesting to the accuracy of the information requested pursuant to 402.3055, F.S. In addition, it requires the department or local licensing agency to validate the information provided.

Amendment #3:

This amendment requires the department to establish and impose uniform penalties for infractions and violations.

Committee on Information Technology: On March 28, 2001, three amendments to CS/HB 179 were adopted and the sponsor elected to have the amendments incorporated as a committee substitute.

Amendment #1:

Tasks the STO with design and development of the database and tasks the DCF with the implementation, operation and maintenance of the system in accordance with policies established by the STO.

Amendment #2

A technical amendment was adopted correcting a drafting ambiguity by replacing the word "or" with "and" and having no substantive effect.

Amendment #3

Added a new section 4 to the bill deleting a requirement under s. 409.146, F.S., that the DCF submit an annual report to the Joint Information Technology Resources Committee because the committee no longer exists. The amendment made the appropriate title amendments and renumbered the bill accordingly.

Council for Healthy Communities: In its April 17 Council meeting, the Council for Healthy Communities adopted one amendment to CS/CS/HB 179.

Amendment #1

Amends subsection (6) of s. 402.301, F.S., to exempt from the definition of child care facility, child care facility licensing standards and personal screening requirements membership organizations, e.g., YMCA, Boy & Girls Club, that do not provide child care for school-age children for more than 4 hours per day and are also affiliated with national organizations. In addition, the amendment provides that child care for children under the age of Kindergarten be considered child care and subject to the provisions of s. 402.301, F.S., through 402.319, F.S.

VI. SIGNATURES:

COMMITTEE ON CHILD & FAMILY SECURITY:

Prepared by:

Staff Director:

María E. Vives Rodríguez

Bob Barrios

AS REVISED BY THE COMMITTEE ON INFORMATION TECHNOLOGY:

Prepared by:

Staff Director:

John A. Barley, Chief Legislative Analyst

Charles M. Davidson

AS FURTHER REVISED BY THE COUNCIL FOR HEALTHY COMMUNITIES:

Prepared by:

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