

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: CS/HB 781 Licensing and Regulating of Children's Centers and Family Day
 Care Homes in Pinellas County
SPONSOR(S): Government Efficiency & Accountability Council, Anderson and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1694

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|--|-------------------------|--------------|----------------|
| 1) <u>Committee on Urban & Local Affairs</u> | <u>7 Y, 0 N</u> | <u>Ligas</u> | <u>Kearney</u> |
| 2) <u>Government Efficiency & Accountability Council</u> | <u>15 Y, 0 N, As CS</u> | <u>Ligas</u> | <u>Cooper</u> |
| 3) _____ | _____ | _____ | _____ |
| 4) _____ | _____ | _____ | _____ |
| 5) _____ | _____ | _____ | _____ |

SUMMARY ANALYSIS

This bill allows parents and legal guardians to have their children in secure, safe, licensed day care when they have to work a 24-hour shift, without the necessity of a variance. The bill provides for written certification from the employer that the parent is working a 24-hour shift. It also clearly specifies that a child may not remain in child care for more than 72 consecutive hours in a 7-day period.

This bill redefines both children's center and family day care homes by removing the criteria that they may only provide child care from 2 to 12 hours.

This bill shall take effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Empower Families – The bill decreases the burdens of government on family decision-making. It also increases the flexibility of governmental agencies respecting the needs of families concerning time, locations and procedures.

Safeguard Individual Liberty – The bill increases parents and legal guardian's options for safe and licensed child care which provides for more control over their own affairs.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

The Department of Children and Family Services (DCF) is responsible for administering child care regulations throughout Florida, unless a county has chosen to assume this regulatory function pursuant to s. 402.306, F.S., which requires that a county meet or exceed prescribed state standards regarding state child care. Pinellas County is one of seven counties which have chosen to designate a local licensing agency to license child care facilities in their county. The Pinellas County Labor Board for Children's Centers and Family Day Care Homes is the licensing body in Pinellas County.

Currently, family day care homes and children's centers are permitted to provide child care for 2 to 12 hours. Both are prohibited from providing care for more than 12 hours except in exigent circumstances such as car accidents, emergency hospitalization, or the death of a family member.

A parent or legal guardian may apply for a variance, if they are in need of child care exceeding 12-hours, for the following reasons:

- Work More Than 12-hour Less Than 24-hour Shift – The parent or legal guardian must work a shift of more than 12 hours but less than 24 hours. A statement verifying employment and hours/days per week worked must be included.
- Multiple Employers – The parent or legal guardian must work for a combined total of more than 12 hours in a day. A statement verifying employment and hours worked per week must be included.
- Work and School Schedule – The parent or legal guardian must work and attend school for a combined total of more than 12 hours in a day. A class schedule from the education institution as well as a statement verifying employment must be included.
- Medical Necessity - The application must include a physician's attestation to the medical need of the parent or legal guardian.
- Work Variance in Excess of 24 hours – The application must include a statement from the parent or legal guardian's employer that the parent or legal guardian works a shift of 24-hours or more listing the number of days within a 7-day period a 24-hour shift or longer is worked. The time that a child remains in care may not exceed 72 consecutive hours in a 7-day period.

To be eligible for a variance the provider must:

- Be licensed for a minimum of one year in Pinellas County and be approved for overnight care or be eligible to be approved for overnight care, if applicable.
- Have received no noncompliance for over capacity or lack of supervisions, no Class I fines, and/or have not been placed on the Enforcement Plan within the past one year. Any occurrence of high risk noncompliance or sanctions during the variance would result in immediate loss of the variance (within 7 days for parents to make other arrangements).
- Notify the License Board staff of any schedule change(s).

Variances are granted specific to the provider solely for the child and/or children listed and are non-transferable by either party.

The child care provider may not have a history of high risk noncompliance within 1 year.

A provider found to be caring for a child and/or children over 12 hours per day without exigent circumstances and without a variance in violation of these regulations will not be eligible to apply for a variance for one year from the date of the violation.

During a declared state of emergency, the License Board may temporarily waive the time limitations.

Presently, this limitation has been reported to cause hardship for parents who work shifts of 24 hours, including law enforcement, nurses and military personnel.

Effect of Proposed Changes:

This bill redefines children's centers by removing the stipulation that the centers are only permitted to provide care from 2 to 12 hours per day per child.

This bill redefines family day care homes by removing the stipulation that the facilities are only permitted to provide care from 2 to 12 hours per day per child.

This bill authorizes child care to be provided for 24-hours or longer for a child whose parent or legal guardian works a shift of 24-hours or more, without the necessity of a variance. The requirement for working a shift of 24-hours or more must be certified in writing by the employer and the documentation must be maintained in the child care facility.

The time that a child remains in child care is limited to 72 consecutive hours in any 7-day period. During a state of emergency, however, the licensing agency is authorized to temporarily waive the time limitations.

C. SECTION DIRECTORY:

Section 1: Amends subsections (1), (5), and (6) of section 2 of chapter 61-2681, Laws of Florida, as amended by section 1 of chapter 70-893, Laws of Florida, adding prolonged child care guidelines.

Section 2: Provides the bill will be effective upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

January 12, 2007

WHERE?

Pinellas News, Pinellas County

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

N/A

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

Sponsor advised staff that no statement would be submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 14, 2007, the Government Efficiency & Accountability Council reported HB 781 favorably with a council substitute to incorporate the amendment adopted by the Committee on Urban & Local Affairs that did not change the subject matter of the bill, but merely moved some provisions around to make the bill more readable.