

By the Committees on Commerce and Tourism; and Children, Families, and Elder Affairs; and Senator Latvala

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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 childcare
4 facility, large family child care home, or family day
5 care home to obtain and maintain a designation as a
6 Gold Seal Quality Care provider; amending s. 402.302,
7 F.S.; revising and providing definitions; providing
8 for certain household children to be included in
9 calculations regarding the capacity of licensed family
10 day care homes and large family child care homes;
11 providing conditions for supervision of household
12 children of operators of family day care homes and
13 large family child care homes; amending s. 402.316,
14 F.S.; requiring that the health, safety, and
15 sanitation standards of an accrediting agency
16 applicable to child care facilities that are exempt
17 from licensure meet or exceed the minimum health,
18 safety, and sanitation standards set forth by the
19 Department of Children and Family Services; requiring
20 a child care facility to prominently display a
21 certificate indicating that the facility qualifies for
22 a religious exemption from licensure; prohibiting an
23 accrediting agency for religious exemption from
24 owning, operating, or administering a child care
25 program that it accredits, including a program owned
26 by relatives; providing that application of the
27 accrediting standards does not authorize the
28 department to regulate or control the governance,
29 curriculum, testing or assessments, evaluation

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30 procedures, academic requirements of the staff or the
31 disciplinary or hiring practices of any child care
32 program; amending s. 402.318, F.S.; revising
33 advertising requirements applicable to child care
34 facilities; providing penalties; amending s. 411.01,
35 F.S., relating to school readiness programs;
36 conforming a cross-reference; providing an effective
37 date.

38
39 Be It Enacted by the Legislature of the State of Florida:

40
41 Section 1. Paragraph (c) of subsection (4) of section
42 402.281, Florida Statutes, is amended to read:

43 402.281 Gold Seal Quality Care program.—

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

48 (c) The child care provider must not have been cited for
49 the same class III violation, as defined by rule, three or more
50 times and failed to correct the violation within 1 year after
51 the date of each citation, within the 2 years preceding its
52 application for designation as a Gold Seal Quality Care
53 provider. Commission of the same class III violation three or
54 more times and failure to correct within the required time
55 during a 2-year period may ~~shall~~ be grounds for termination of
56 the designation as a Gold Seal Quality Care provider until the
57 provider has no class III violations for a period of 1 year.

58 Section 2. Section 402.302, Florida Statutes, is amended to

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59 read:

60 402.302 Definitions.—As used in this chapter, the term:

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

67 (2) "Child care facility" includes any child care center or
68 child care arrangement which provides child care for more than
69 five children unrelated to the operator and which receives a
70 payment, fee, or grant for any of the children receiving care,
71 wherever operated, and whether or not operated for profit. The
72 following are not included:

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

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

76 (c) Summer day camps;

77 (d) Bible schools normally conducted during vacation
78 periods; and

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

84 (3) "Child care personnel" means all owners, operators,
85 employees, and volunteers working in a child care facility. The
86 term does not include persons who work in a child care facility
87 after hours when children are not present or parents of children

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88 in a child care facility. For purposes of screening, the term
89 includes any member, over the age of 12 years, of a child care
90 facility operator's family, or person, over the age of 12 years,
91 residing with a child care facility operator if the child care
92 facility is located in or adjacent to the home of the operator
93 or if the family member of, or person residing with, the child
94 care facility operator has any direct contact with the children
95 in the facility during its hours of operation. Members of the
96 operator's family or persons residing with the operator who are
97 between the ages of 12 years and 18 years are not required to be
98 fingerprinted but must be screened for delinquency records. For
99 purposes of screening, the term also includes persons who work
100 in child care programs that provide care for children 15 hours
101 or more each week in public or nonpublic schools, family day
102 care homes, or programs otherwise exempted under s. 402.316. The
103 term does not include public or nonpublic school personnel who
104 are providing care during regular school hours, or after hours
105 for activities related to a school's program for grades
106 kindergarten through 12. A volunteer who assists on an
107 intermittent basis for less than 10 hours per month is not
108 included in the term "personnel" for the purposes of screening
109 and training if a person who meets the screening requirement of
110 s. 402.305(2) is always present and has the volunteer in his or
111 her line of sight. Students who observe and participate in a
112 child care facility as a part of their required coursework are
113 not considered child care personnel, provided such observation
114 and participation are on an intermittent basis and a person who
115 meets the screening requirement of s. 402.305(2) is always
116 present and has the student in his or her line of sight.

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

119 (5) "Department" means the Department of Children and
120 Family Services.

121 (6) "Drop-in child care" means child care provided
122 occasionally in a child care facility in a shopping mall or
123 business establishment where a child is in care for no more than
124 a 4-hour period and the parent remains on the premises of the
125 shopping mall or business establishment at all times. Drop-in
126 child care arrangements shall meet all requirements for a child
127 care facility unless specifically exempted.

128 (7) "Evening child care" means child care provided during
129 the evening hours and may encompass the hours of 6:00 p.m. to
130 7:00 a.m. to accommodate parents who work evenings and late-
131 night shifts.

132 (8) "Family day care home" means an occupied residence in
133 which child care is regularly provided for children from at
134 least two unrelated families and which receives a payment, fee,
135 or grant for any of the children receiving care, whether or not
136 operated for profit. Household children under 13 years of age,
137 when on the premises of the family day care home or on a field
138 trip with children enrolled in child care, shall be included in
139 the overall capacity of the licensed home. A family day care
140 home shall be allowed to provide care for one of the following
141 groups of children, which shall include household ~~those~~ children
142 under 13 years of age ~~who are related to the caregiver:~~

143 (a) A maximum of four children from birth to 12 months of
144 age.

145 (b) A maximum of three children from birth to 12 months of

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146 age, and other children, for a maximum total of six children.

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

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

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

160 (10)~~(9)~~ "Large family child care home" means an occupied
161 residence in which child care is regularly provided for children
162 from at least two unrelated families, which receives a payment,
163 fee, or grant for any of the children receiving care, whether or
164 not operated for profit, and which has at least two full-time
165 child care personnel on the premises during the hours of
166 operation. One of the two full-time child care personnel must be
167 the owner or occupant of the residence. A large family child
168 care home must first have operated as a licensed family day care
169 home for 2 years, with an operator who has had a child
170 development associate credential or its equivalent for 1 year,
171 before seeking licensure as a large family child care home.
172 Household children under 13 years of age, when on the premises
173 of the large family child care home or on a field trip with
174 children enrolled in child care, shall be included in the

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175 overall capacity of the licensed home. A large family child care
176 home shall be allowed to provide care for one of the following
177 groups of children, which shall include household ~~those~~ children
178 under 13 years of age ~~who are related to the caregiver:~~

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

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

182 (11) ~~(10)~~ "Indoor recreational facility" means an indoor
183 commercial facility which is established for the primary purpose
184 of entertaining children in a planned fitness environment
185 through equipment, games, and activities in conjunction with
186 food service and which provides child care for a particular
187 child no more than 4 hours on any one day. An indoor
188 recreational facility must be licensed as a child care facility
189 under s. 402.305, but is exempt from the minimum outdoor-square-
190 footage-per-child requirement specified in that section, if the
191 indoor recreational facility has, at a minimum, 3,000 square
192 feet of usable indoor floor space.

193 (12) ~~(11)~~ "Local licensing agency" means any agency or
194 individual designated by the county to license child care
195 facilities.

196 (13) ~~(12)~~ "Operator" means any onsite person ultimately
197 responsible for the overall operation of a child care facility,
198 whether or not he or she is the owner or administrator of such
199 facility.

200 (14) ~~(13)~~ "Owner" means the person who is licensed to
201 operate the child care facility.

202 (15) ~~(14)~~ "Screening" means the act of assessing the
203 background of child care personnel and volunteers and includes,

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204 but is not limited to, employment history checks, local criminal
205 records checks through local law enforcement agencies,
206 fingerprinting for all purposes and checks in this subsection,
207 statewide criminal records checks through the Department of Law
208 Enforcement, and federal criminal records checks through the
209 Federal Bureau of Investigation.

210 (16)~~(15)~~ "Secretary" means the Secretary of Children and
211 Family Services.

212 (17)~~(16)~~ "Substantial compliance" means that level of
213 adherence which is sufficient to safeguard the health, safety,
214 and well-being of all children under care. Substantial
215 compliance is greater than minimal adherence but not to the
216 level of absolute adherence. Where a violation or variation is
217 identified as the type which impacts, or can be reasonably
218 expected within 90 days to impact, the health, safety, or well-
219 being of a child, there is no substantial compliance.

220 (18)~~(17)~~ "Weekend child care" means child care provided
221 between the hours of 6 p.m. on Friday and 6 a.m. on Monday.

222 Section 3. Section 402.316, Florida Statutes, is amended to
223 read:

224 402.316 Exemptions.—

225 (1) The provisions of ss. 402.301-402.319, except for the
226 requirements regarding screening of child care personnel, do
227 ~~shall~~ not apply to a child care facility that ~~which~~ is an
228 integral part of church or parochial schools conducting
229 regularly scheduled classes, courses of study, or educational
230 programs accredited by, or by a member of, an organization that
231 ~~which~~ publishes and requires compliance with its standards for
232 health, safety, and sanitation. Such standards must meet or

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233 exceed the minimum health, safety, and sanitation standards as
234 prescribed under chapter 65C-22, Florida Administrative Code.
235 ~~However,~~ Such facilities shall meet minimum requirements of the
236 applicable local governing body as to health, sanitation, and
237 safety and shall meet the screening requirements pursuant to ss.
238 402.305 and 402.3055. Failure by a facility to comply with the
239 ~~such~~ screening requirements shall result in the loss of the
240 facility's exemption from licensure.

241 (2) A child care facility covered by the religious
242 exemption set forth in subsection (1) must display in a
243 conspicuous location at the facility its certificate of
244 compliance issued by the agency accrediting the child care
245 facility for a religious exemption. The certificate must state
246 that it is issued specifically for the purpose of providing the
247 child care facility with a religious exemption from licensure.

248 (3) ~~(2)~~ Any county or city with state or local child care
249 licensing programs in existence on July 1, 1974, will continue
250 to license the child care facilities as covered by such
251 programs, notwithstanding the provisions of subsection (1),
252 until and unless the licensing agency makes a determination to
253 exempt them.

254 (4) ~~(3)~~ Any child care facility covered by the exemption
255 provisions of subsection (1), but desiring to be included in
256 this act, is authorized to do so by submitting notification to
257 the department. Once licensed, such facility cannot withdraw
258 from the act and continue to operate.

259 (5) A recognized accrediting agency for religious exemption
260 may not own, operate, or administer a child care program that
261 the agency accredits. This limitation applies to programs owned,

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262 operated, or administered by relatives of the accrediting agency
263 who are within the fifth degree by blood or marriage.

264 (6) This section does not authorize the department to
265 regulate or control the governance, curriculum, academic
266 curriculum, testing or assessments, evaluation procedures,
267 academic requirements of the staff, disciplinary practices, or
268 hiring practices of any child care program under this section.

269 Section 4. Section 402.318, Florida Statutes, is amended to
270 read:

271 402.318 Advertisement.—A No person, as defined in s.
272 1.01(3), may not ~~shall~~ advertise or publish an advertisement for
273 a child care facility, family day care home, or large family
274 child care home without including within such advertisement the
275 state or local agency license number or registration number of
276 such facility or home. Violation of this section is a
277 misdemeanor of the first degree, punishable as provided in s.
278 775.082 or s. 775.083.

279 Section 5. Paragraph (c) of subsection (5) of section
280 411.01, Florida Statutes, is amended to read:

281 411.01 School readiness programs; early learning
282 coalitions.—

283 (5) CREATION OF EARLY LEARNING COALITIONS.—

284 (c) *Program expectations.*—

285 1. The school readiness program must meet the following
286 expectations:

287 a. The program must, at a minimum, enhance the age-
288 appropriate progress of each child in attaining the performance
289 standards and outcome measures adopted by the Agency for
290 Workforce Innovation.

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

294 c. The program must provide a coordinated professional
295 development system that supports the achievement and maintenance
296 of core competencies by school readiness instructors in helping
297 children attain the performance standards and outcome measures
298 adopted by the Agency for Workforce Innovation.

299 d. There must be expanded access to community services and
300 resources for families to help achieve economic self-
301 sufficiency.

302 e. There must be a single point of entry and unified
303 waiting list. As used in this sub-subparagraph, the term "single
304 point of entry" means an integrated information system that
305 allows a parent to enroll his or her child in the school
306 readiness program at various locations throughout a county, that
307 may allow a parent to enroll his or her child by telephone or
308 through an Internet website, and that uses a unified waiting
309 list to track eligible children waiting for enrollment in the
310 school readiness program. The Agency for Workforce Innovation
311 shall establish through technology a single statewide
312 information system that each coalition must use for the purposes
313 of managing the single point of entry, tracking children's
314 progress, coordinating services among stakeholders, determining
315 eligibility, tracking child attendance, and streamlining
316 administrative processes for providers and early learning
317 coalitions.

318 f. The Agency for Workforce Innovation must consider the
319 access of eligible children to the school readiness program, as

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320 demonstrated in part by waiting lists, before approving a
321 proposed increase in payment rates submitted by an early
322 learning coalition. In addition, early learning coalitions shall
323 use school readiness funds made available due to enrollment
324 shifts from school readiness programs to the Voluntary
325 Prekindergarten Education Program for increasing the number of
326 children served in school readiness programs before increasing
327 payment rates.

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

330 h. The program must ensure that minimum standards for child
331 discipline practices are age-appropriate. Such standards must
332 provide that children not be subjected to discipline that is
333 severe, humiliating, or frightening or discipline that is
334 associated with food, rest, or toileting. Spanking or any other
335 form of physical punishment is prohibited.

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

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

347 b. A character development program to develop basic values.

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

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349 development.

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

353 e. An appropriate staff-to-children ratio, pursuant to s.
354 402.305(4) or s. 402.302(8) or (10) ~~s. 402.302(7) or (8)~~, as
355 applicable, and as verified pursuant to s. 402.311.

356 f. A healthy and safe environment pursuant to s.
357 401.305(5), (6), and (7), as applicable, and as verified
358 pursuant to s. 402.311.

359 g. A resource and referral network established under s.
360 411.0101 to assist parents in making an informed choice and a
361 regional Warm-Line under s. 411.01015.

362

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

369 Section 6. This act shall take effect July 1, 2011.