

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

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BILL: SB 108

INTRODUCER: Senator Detert

SUBJECT: Child Care Facilities

DATE: April 11, 2013

REVISED: \_\_\_\_\_

|    | ANALYST  | STAFF DIRECTOR | REFERENCE | ACTION             |
|----|----------|----------------|-----------|--------------------|
| 1. | Peterson | Hendon         | CF        | <b>Pre-meeting</b> |
| 2. |          |                | ED        |                    |
| 3. |          |                | RC        |                    |
| 4. |          |                |           |                    |
| 5. |          |                |           |                    |
| 6. |          |                |           |                    |

**I. Summary:**

SB 108 amends the minimum licensing standard for a child care facility plan of activities to specify that it include requirements for the appropriate use of confining equipment, periods of physical activity, and limitations on screen time,<sup>1</sup> as defined by rule of the Department of Children and Families (the department). The bill also corrects the name of the department as it appears in the definition section of ch. 402, F.S.

The bill is not expected to have a fiscal impact on the state and has an effective date of July 1, 2013.

This bill substantially amends the following sections of the Florida Statutes: 402.302 and 402.305.

**II. Present Situation:**

**Licensing of Child Care Facilities, Family Day Care Homes, and Large Family Child Care Homes**

Child care facilities in the state must meet licensing standards that are established by the Department of Children and Family Services.<sup>2</sup> A child care facility generally includes any child care center or child care arrangement which provides child care for more than five children

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<sup>1</sup> "Screen time," which is not currently defined in statute, could include television, video, DVD, computer, or similar media viewing.

<sup>2</sup> Section 402.305, F.S.

unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, and whether or not operated for profit.<sup>3</sup>

Licensing standards adopted by the department must be designed to address each of the following areas:

- The health, sanitation, safety, and adequate physical surroundings for all children in child care.
- The health and nutrition of all children in child care.
- The child development needs of all children in child care.<sup>4</sup>

In addition, the law requires child care facilities to have and to implement a written plan for the daily provision of varied activities and active and quiet play opportunities that are age appropriate for the children under care.<sup>5</sup> The rules of the department implementing the statute require that the plan be posted in a conspicuous place that is accessible to parents, and that the plan meet the needs of the children being served and include scheduled activities that:

- Promote emotional, social, intellectual and physical growth;
- Include quiet and active play; both indoors and outdoors; and
- Include meals, snacks and nap times, if appropriate for the children under care.<sup>6</sup>

Florida law permits a county that meets or exceeds the state's minimum licensing requirements to designate a local agency to license child care facilities or to contract with DCF to delegate administration of the standards to the department.<sup>7</sup> Currently, DCF is responsible for administering child care licensing in 62 of Florida's 67 counties. Five counties (Broward, Hillsborough, Palm Beach, Pinellas, and Sarasota) administer their own inspections and licensure of child care facilities.<sup>8</sup>

The law also requires a family day care home either to obtain a license or to register annually with the department. A family day care home is an occupied residence in which child care is provided for children from at least two unrelated families for compensation. The maximum allowable number of children varies by the age of the children served.<sup>9</sup> A family day care home is required to be licensed if it is presently licensed under a county licensing ordinance or if the board of county commissioners passes a resolution requiring family day care homes to be licensed. If a family day care home is not subject to licensure or does not volunteer to be licensed, then it must register annually with DCF.<sup>10</sup> The department establishes by rule minimum standards for licensed family day care homes, which include requirements for staffing, training, maintenance of immunization records, minimum health and safety standards, reduced standards

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<sup>3</sup> Section 402.302(2), F.S.

<sup>4</sup> Section 402.305(1), F.S.

<sup>5</sup> Section 402.305(13), F.S.

<sup>6</sup> Rule 65C-22.001(7)(a), F.A.C.

<sup>7</sup> Section 402.306(1), F.S.

<sup>8</sup> Fla. Dep't of Children and Families, *Child Care Regulation Licensing Information*, available at <http://www.dcf.state.fl.us/programs/childcare/licensing.shtml> (last visited Jan. 30, 2013).

<sup>9</sup> Section 402.302(8), F.S.

<sup>10</sup> Section 402.313(1), F.S.

for the regulation of child care by local governments which is provided during evening hours, and enforcement of these standards.<sup>11</sup>

A large family child care home, which is similar in definition to a family day care home, is required to be licensed by the department according to the minimum standards it establishes by rule. These standards include requirements for staffing, maintenance of immunization records, minimum health standards, minimum safety standards, minimum square footage, and enforcement of standards.<sup>12</sup> Currently, the department's rule contains an identical requirement for posting a plan of activities to the requirement applicable to child care facilities.<sup>13</sup>

Currently, the department regulates 7,664 child care arrangements serving over 481,445 children in 62 of 67 Florida counties.<sup>14</sup>

### **Child Care Standards and Improvements Work Group**

In 2010 the Secretary of the Department of Children and Families appointed a work group to examine child care standards and identify areas where improvement is required to provide an environment in which children can grow and thrive.<sup>15</sup> The work group, which included representatives from child care providers, advocates, and professionals, met six times and issued its report in January 2011. While the report addressed a wide range of issues, it included a specific finding that Florida law currently lacks standards that address infant and toddler containment. The report recommended that time in confining equipment, such as cribs, high chairs, playpens, and seats, be restricted primarily to napping and care routines, and that infants and toddlers be free to move most of their awake time so as to promote necessary development of fine and gross motor skills. The report also recommended that a separate work group be established to examine family child care home policy and practice standards.<sup>16</sup>

### **National Health and Safety Performance Standards; Guidelines for Early Care and Education Programs**

The National Health and Safety Performance Standards; Guidelines for Early Care and Education Programs, which are a joint collaborative project of the American Academy of Pediatrics, the American Public Health Association, and the National Resource Center for Health and Safety in Child Care and Early Education, recommend that a child not sit in a high chair or other equipment that constrains movement longer than 15 minutes, except at meals or snack times. Because children are continually developing their physical skills, they need opportunities to use and build on their physical abilities. Extended periods in the crib, high chair, or other confined space limit a child's physical growth and affect the child's social interactions.<sup>17</sup>

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<sup>11</sup> Section 402.313(13), F.S.

<sup>12</sup> Section 402.3131(7), F.S.

<sup>13</sup> Rule 65C-20.013(9), F.A.C.

<sup>14</sup> Fla. Dep't of Children and Families, *Quick Facts* (Nov. 2012) available at <http://www.dcf.state.fl.us/newsroom/docs/quickfacts.pdf> (last visited Jan. 31, 2013).

<sup>15</sup> Fla. Dep't of Children and Families, *Report of the Child Care Standards and Improvements Work Group* (Jan. 19, 2011), available at <http://www.flgov.com/wp-content/uploads/childadvocacy/csdm12.2ccwgreport.pdf> (last visited Jan. 30, 2013).

<sup>16</sup> *Id.*

<sup>17</sup> Am. Acad. of Pediatrics, Am. Pub. Health Ass'n, Nat'l Res. Ctr. for Health and Safety in Child Care and Early Education, *Standard 2.2.0.2: Limiting Infant/Toddler Time in Crib, High chair, Car Seat, Etc., Caring for our children: National health*

These same guidelines also recommend that children under two years of age not be permitted to view media or computers. Children two years of age and older should be limited to not more than 30 minutes of screen time once a week, and for educational or physical activity use, only. In the first two years of life, children's brains and bodies are undergoing critical periods of growth and development. It is important that they have positive interactions with people and not sit in front of a screen that takes time away from social interaction.<sup>18</sup>

In December 2011, the department initiated rulemaking to implement modifications to Chapter 65C-22, F.A.C., relating to Child Care Facilities, required as a result of legislation passed during the 2010 Session.<sup>19</sup> Following a series of workshops, the department published a proposed rule in July 2012 that included, among the proposed modifications, changes to the planned activities standards limiting the use of confining equipment, and television, videos, movies, and video games. The Joint Administrative Procedure Committee (JAPC) raised a number of issues regarding provisions in the rule unrelated to these sections and notified the department that it was considering an objection. As an alternative, JAPC suggested the department postpone adoption to accommodate JAPC's continued review, which the department did on January 9, 2013.<sup>20</sup> The department anticipates filing the rule for adoption this summer.

### III. Effect of Proposed Changes:

**Section 1** amends s. 402.302(5), F.S., which is the definition of "Department," as the term is used in ch. 402, F.S., to change the reference from the "Department of Children and Family Services" to the "Department of Children and Families." This conforms the reference to the change made in Chapter 2012-84, Laws of Florida, which reorganized the Department of Children and Family Services and renamed it the Department of Children and Families.

**Section 2** amends s. 402.305(13), F.S., to require the minimum licensing standard applicable to child care facilities for the plan of activities to include requirements for the appropriate use of confining equipment, periods of physical activity, and limitations on screen time.

**Section 3** provides an effective date of July 1, 2013.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

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*and safety performance standards; Guidelines for early care and education programs.* (3rd ed. 2011), available at [http://nrckids.org/CFOC3/PDFVersion/PDF\\_Color/CFOC3\\_ch2.pdf](http://nrckids.org/CFOC3/PDFVersion/PDF_Color/CFOC3_ch2.pdf) (last visited Jan. 30, 2013).

<sup>18</sup> Am. Acad. of Pediatrics, Am. Pub. Health Ass'n, Nat'l Res. Ctr. for Health and Safety in Child Care and Early Education, *Standard 2.2.0.3: Limiting Screen Time – Media, Computer Time, Caring for our children: National health and safety performance standards; Guidelines for early care and education programs.* (3rd ed. 2011), available at [http://nrckids.org/CFOC3/PDFVersion/PDF\\_Color/CFOC3\\_ch2.pdf](http://nrckids.org/CFOC3/PDFVersion/PDF_Color/CFOC3_ch2.pdf) (last visited Jan. 30, 2013).

<sup>19</sup> Chapter 2010-161, Laws of Fla.; Chapter 2010-114, Laws of Fla.

<sup>20</sup> Conversation with Deborah Russo, Director, Office of Child Care Regulation & Background Screening, Fla. Dep't of Children and Families (Jan. 31, 2013).

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

According to the department, providers could extend outdoor play to enhance gross motor skills or extend reading time and other already established activities to meet these requirements. As such, they would not be required to buy equipment, supplies, or materials. The change may result in the need for a provider to print a new schedule of daily activities for posting. Thus, the fiscal impact to the private sector would be negligible, if any.<sup>21</sup>

**C. Government Sector Impact:**

County governments that currently license child care facilities will be required to conform their ordinances, if they do not currently meet or exceed the new standard.

According to the Florida Office of Early Learning, FY 2012-13 program funding for Florida's School Readiness Programs totals \$574,469,783.<sup>22</sup> Thus, the Legislature's interest in bills regulating child care facilities is not only as a regulator protecting the health, safety, and welfare of children in care, but as a purchaser of those services.

**VI. Technical Deficiencies:**

The bill amends only s. 402.305, F.S., relating to child care facilities. If the intent is to provide in law the same minimum standards for all children in child care settings regulated by the department, similar language would need to be added to s. 402.313(13), F.S., relating to family day care homes, and s. 402.3131(7), F.S., relating to large family child care homes.

**VII. Related Issues:**

None.

<sup>21</sup> Dep't of Children and Family Services, *Staff Analysis and Economic Impact, SB 108* (Dec. 13, 2012) (on file with the Senate Committee on Children, Families, and Elder Affairs).

<sup>22</sup> Provided as part of a data request from Senate Children, Families and Elder Affairs staff to the Office of Early Learning. Response received on Feb. 7, 2013.

**VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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