

CHAPTER 97-63

Committee Substitute for Senate Bill No. 630

An act relating to children; amending s. 402.302, F.S.; defining the terms “evening child care” and “weekend child care”; providing references to the Department of Children and Family Services; amending s. 402.305, F.S.; providing minimum standards for staff-to-children ratio in a licensed child care facility with children of mixed age ranges; providing for minimum standards for evening child care; amending s. 402.313, F.S.; providing for establishment of minimum standards for licensed family day care homes; providing an effective date.

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

Section 1. Section 402.302, Florida Statutes, 1996 Supplement, is amended to read:

402.302 Definitions.—

(1)~~(3)~~ “Child care” means the care, protection, and supervision of a child, for a period of less than 24 hours a day on a regular basis, which supplements parental care, enrichment, and health supervision for the child, in accordance with his or her individual needs, and for which a payment, fee, or grant is made for care.

(2)~~(4)~~ “Child care facility” includes any child care center or child care arrangement which provides child care for more than five children 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. The following are not included:

- (a) Public schools and nonpublic schools and their integral programs, except as provided in s. 402.3025;
- (b) Summer camps having children in full-time residence;
- (c) Summer day camps; and
- (d) Bible schools normally conducted during vacation periods.

(3)~~(8)~~ “Child care personnel” means all owners, operators, employees, and volunteers working in a child care facility. The term does not include persons who work in a child care facility after hours when children are not present or parents of children in Head Start. For purposes of screening, the term includes any member, over the age of 12 years, of a child care facility operator’s family, or person, over the age of 12 years, residing with a child care facility operator if the child care facility is located in or adjacent to the home of the operator or if the family member of, or person residing with, the child care facility operator has any direct contact with the children in the

facility during its hours of operation. Members of the operator's family or persons residing with the operator who are between the ages of 12 years and 18 years shall not be required to be fingerprinted but shall be screened for delinquency records. For purposes of screening, the term shall also include persons who work in child care programs which provide care for children 15 hours or more each week in public or nonpublic schools, summer day camps, family day care homes, or those programs otherwise exempted under s. 402.316. The term does not include public or nonpublic school personnel who are providing care during regular school hours, or after hours for activities related to a school's program for grades kindergarten through 12 as required under chapter 232. A volunteer who assists on an intermittent basis for less than 40 hours per month is not included in the term "personnel" for the purposes of screening and training, provided that the volunteer is under direct and constant supervision by persons who meet the personnel requirements of s. ~~402.305(2)~~402.305(4). Students who observe and participate in a child care facility as a part of their required coursework shall not be considered child care personnel, provided such observation and participation are on an intermittent basis and the students are under direct and constant supervision of child care personnel.

~~(4)~~(1) "Department" means the Department of Children and Family Health and Rehabilitative Services.

~~(5)~~(12) "Drop-in child care" means child care provided occasionally in a child care facility in a shopping mall or business establishment where a child is in care for no more than a 4-hour period and the parent remains on the premises of the shopping mall or business establishment at all times. Drop-in child care arrangements shall meet all requirements for a child care facility unless specifically exempted.

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

~~(7)~~(5) "Family day care home" means an occupied residence in which child care is regularly provided for children from at least two unrelated families and which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit. A family day care home shall be allowed to provide care for one of the following groups of children, which shall include those children under 13 years of age who are related to the caregiver:

- (a) A maximum of four children from birth to 12 months of age.
- (b) A maximum of three children from birth to 12 months of age, and other children, for a maximum total of six children.
- (c) A maximum of six preschool children if all are older than 12 months of age.
- (d) A maximum of 10 children if no more than 5 are preschool age and, of those 5, no more than 2 are under 12 months of age.

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

(9) “Local licensing agency” means any agency or individual designated by the county to license child care facilities.

(10)(6) “Operator” means any onsite person ultimately responsible for the overall operation of a child care facility, whether or not he or she is the owner or administrator of such facility.

(11)(7) “Owner” means the person who is licensed to operate the child care facility.

(12)(10) “Screening” means the act of assessing the background of child care personnel and includes, but is not limited to, employment history checks, local criminal records checks through local law enforcement agencies, fingerprinting for all purposes and checks in this subsection, statewide criminal records checks through the Department of Law Enforcement, and federal criminal records checks through the Federal Bureau of Investigation; except that screening for volunteers included under the definition of personnel includes only local criminal records checks through local law enforcement agencies for current residence and residence immediately prior to employment as a volunteer, if different, and statewide criminal records correspondence checks through the Department of Law Enforcement.

(13)(2) “Secretary” means the Secretary of Children and Family ~~the Department of Health and Rehabilitative Services~~.

(14)(11) “Substantial compliance” means that level of adherence which is sufficient to safeguard the health, safety, and well-being of all children under care. Substantial compliance is greater than minimal adherence but not to the level of absolute adherence. Where a violation or variation is identified as the type which impacts, or can be reasonably expected within 90 days to impact, the health, safety, or well-being of a child, there is no substantial compliance.

(15) “Weekend child care” means child care provided between the hours of 6 p.m. on Friday and 6 a.m. on Monday.

Section 2. Paragraph (a) of subsection (4) of section 402.305, Florida Statutes, 1996 Supplement, is amended, present subsection (16) is renumbered as subsection (17), and a new subsection (16) is added to that section, to read:

402.305 Licensing standards; child care facilities.—

(4) STAFF-TO-CHILDREN RATIO.—

(a) Minimum standards for the care of children in a licensed child care facility as established by rule of the department must include:

1. For children from birth through 1 year of age, there must be one child care personnel for every four children.

2. For children 1 year of age or older, but under 2 years of age, there must be one child care personnel for every six children.

3. For children 2 years of age or older, but under 3 years of age, there must be one child care personnel for every 11 children.

4. For children 3 years of age or older, but under 4 years of age, there must be one child care personnel for every 15 children.

5. For children 4 years of age or older, but under 5 years of age, there must be one child care personnel for every 20 children.

6. For children 5 years of age or older, there must be one child care personnel for every 25 children.

7. When children 2 years of age and older are in care, the staff-to-children ratio shall be based on the age group with the largest number of children within the group.

(16) EVENING AND WEEKEND CHILD CARE.—Minimum standards shall be developed by the department to provide for reasonable, affordable, and safe evening and weekend child care. Each facility offering evening or weekend child care must meet these minimum standards, regardless of the origin or source of the fees used to operate the facility or the type of children served by the facility. The department may modify by rule the licensing standards contained in this section to accommodate evening child care.

Section 3. Subsection (3) of section 402.313, Florida Statutes, 1996 Supplement, is amended, and subsection (10) is added to that section, to read:

402.313 Family day care homes.—

(3) Child care personnel in family day care homes shall be subject to the applicable screening provisions contained in ss. 402.305(2) ~~402.305(4)~~ and 402.3055. For purposes of screening in family day care homes, the term includes any member over the age of 12 years of a family day care home operator's family, or persons over the age of 12 years residing with the operator in the family day care home. Members of the operator's family, or persons residing with the operator, who are between the ages of 12 years and 18 years shall not be required to be fingerprinted, but shall be screened for delinquency records.

(10) The department shall, by rule, establish minimum standards for family day care homes that are required to be licensed by county licensing ordinance or county licensing resolution or that voluntarily choose to be

licensed. The standards should include requirements for staffing, maintenance of immunization records, minimum health standards, reduced standards for the regulation of child care during evening hours by municipalities and counties, and enforcement of standards.

Section 4. This act shall take effect July 1, 1997.

Became a law without the Governor's approval May 16, 1997.

Filed in Office Secretary of State May 12, 1997.