

2021

Florida Statutes

Sections

402.26-402.319

Child Care

**402.26 Child care; legislative intent.—**

(1) The Legislature recognizes the critical importance to the citizens of the state of both safety and quality in child care. Child care in Florida is in the midst of continuing change and development, driven by extraordinary changes in demographics. Many parents with children under age 6 are employed outside the home. For the majority of Florida's children, child care will be a common experience. For many families, child care is an indispensable part of the effort to meet basic economic obligations or to make economic gains. State policy continues to recognize the changing composition of the labor force and the need to respond to the concerns of Florida's citizens as they enter the child care market. In particular, the Legislature recognizes the need to have more working parents employed in family-friendly workplaces. In addition, the Legislature recognizes the abilities of public and private employers to assist the family's efforts to balance family care needs with employment opportunities.

(2) The Legislature also recognizes the effects of both safety and quality in child care in reducing the need for special education, public assistance, and dependency programs and in reducing the incidence of delinquency and educational failure. In a budgetary context that spends billions of dollars to address the aftermath of bad outcomes, safe, quality child care is one area in which the often maligned concept of cost-effective social intervention can be applied. It is the intent of the Legislature, therefore, that state policy should be firmly embedded in the recognition that child care is a voluntary choice of the child's parents. For parents who choose child care, it is the intent of the Legislature to protect the health and welfare of children in care.

(3) To protect the health and welfare of children, it is the intent of the Legislature to develop a regulatory framework that promotes the growth and stability of the child care industry and facilitates the safe physical, intellectual, motor, and social development of the child.

(4) It is also the intent of the Legislature to promote the development of child care options in the private sector and disseminate information that will assist the public in determining appropriate child care options.

(5) It is the further intent of the Legislature to provide and make accessible child care opportunities for children at risk, economically disadvantaged children, and other children traditionally disenfranchised from society. In achieving this intent, the Legislature shall develop a school readiness program, a range of child care options, support services, and linkages with other programs to fully meet the child care needs of this population.

History.—s. 32, ch. 90-306; s. 70, ch. 96-175; s. 4, ch. 99-304; s. 6, ch. 2010-210; s. 9, ch. 2021-10.

**The Gold Seal Quality Care Program can now be found in the Early Learning Education Code under ss. 1002.945**

**402.301 Child care facilities; legislative intent and declaration of purpose and policy.—**It is the legislative intent to protect the health, safety, and well-being of the children of the state and to promote their emotional and intellectual development and care. Toward that end:

(1) It is the purpose of ss. 402.301-402.319 to establish statewide minimum standards for the care and protection of children in child care facilities, to ensure maintenance of these standards, and to

approve county administration and enforcement to regulate conditions in such facilities through a program of licensing.

(2) It is the intent of the Legislature that all owners, operators, and child care personnel shall be of good moral character.

(3) It shall be the policy of the state to ensure protection of children and to encourage child care providers and parents to share responsibility for and to assist in the improvement of child care programs.

(4) It shall be the policy of the state to promote public and private employer initiatives to establish day care services for their employees.

(5) It is the further legislative intent that the freedom of religion of all citizens shall be inviolate. Nothing in ss. 402.301-402.319 shall give any governmental agency jurisdiction or authority to regulate, supervise, or in any way be involved in any Sunday School, Sabbath School, or religious services or any nursery service or other program conducted during religious or church services primarily for the convenience of those attending such services.

(6) It is further the intent that membership organizations affiliated with national organizations which do not provide child care, whose primary purpose is providing activities that contribute to the development of good character or good sportsmanship or to the education or cultural development of minors in this state, which charge only a nominal annual membership fee, which are not for profit, and which are certified by their national associations as being in compliance with the association's minimum standards and procedures shall not be considered child care facilities. However, all personnel as defined in s. 402.302 of such membership organizations shall meet background screening requirements through the department pursuant to ss. 402.305 and 402.3055.

(7) It shall be the policy of the state to encourage child care providers to serve children with disabilities. When requested, the department shall provide technical assistance to parents and child care providers in order to facilitate serving children with disabilities.

**History.**—s. 1, ch. 74-113; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 6, 7, ch. 83-248; s. 1, ch. 84-551; s. 21, ch. 87-238; s. 1, ch. 91-300; ss. 1, 2, ch. 93-115; s. 74, ch. 96-175; s. 5, ch. 2015-79.

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

(1) “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) “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;
- (d) Bible schools normally conducted during vacation periods; and
- (e) Operators of transient establishments, as defined in chapter 509, which provide child care services solely for the guests of their establishment or resort, provided that all child care personnel of the establishment are screened according to the level 2 screening requirements of chapter 435.

(3) “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 a child care facility. 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 are not required to be fingerprinted but must be screened for delinquency records. For purposes of screening, the term also includes persons who work in child care programs that provide care for children 15 hours or more each week in public or nonpublic schools, family day care homes, membership organizations under s. 402.301, or 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. A volunteer who assists on an intermittent basis for less than 10 hours per month is not included in the term “personnel” for the purposes of screening and training if a person who meets the screening requirement of s. 402.305(2) is always present and has the volunteer in his or her line of sight. Students who observe and participate in a child care facility as a part of their required coursework are not considered child care personnel, provided such observation and participation are on an intermittent basis and a person who meets the screening requirement of s. 402.305(2) is always present and has the student in his or her line of sight.

(4) “Child welfare provider” means a licensed child-caring or child-placing agency.

(5) “Department” means the Department of Children and Families.

(6) “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.

(7) “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.

(8) “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. Household children under 13 years of age, when on the premises of the family day care home or on a field trip with children enrolled in child

care, shall be included in the overall capacity of the licensed home. A family day care home shall be allowed to provide care for one of the following groups of children, which shall include household children under 13 years of age:

(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.

(9) "Household children" means children who are related by blood, marriage, or legal adoption to, or who are the legal wards of, the family day care home operator, the large family child care home operator, or an adult household member who permanently or temporarily resides in the home. Supervision of the operator's household children shall be left to the discretion of the operator unless those children receive subsidized child care through the school readiness program pursuant to s. 1002.92 to be in the home.

(10) "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.

(11) "Large family child care home" means an occupied residence in which child care is regularly provided for children from at least two unrelated families, which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit, and which has at least two full-time child care personnel on the premises during the hours of operation. One of the two full-time child care personnel must be the owner or occupant of the residence. A large family child care home must first have operated as a licensed family day care home for 2 years, with an operator who has had a child development associate credential or its equivalent for 1 year, before seeking licensure as a large family child care home. Household children under 13 years of age, when on the premises of the large family child care home or on a field trip with children enrolled in child care, shall be included in the overall capacity of the licensed home. A large family child care home shall be allowed to provide care for one of the following groups of children, which shall include household children under 13 years of age:

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

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

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

(13) "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.

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

(15) “Screening” means the act of assessing the background of child care personnel, in accordance with state and federal law, and volunteers and includes, but is not limited to:

(a) Employment history checks, including documented attempts to contact each employer that employed the applicant within the preceding 5 years and documentation of the findings.

(b) A search of the criminal history records, sexual predator and sexual offender registry, and child abuse and neglect registry of any state in which the applicant resided during the preceding 5 years. An applicant must submit a full set of fingerprints to the department or to a vendor, entity, or agency authorized by s. 943.053(13). The department, vendor, entity, or agency shall forward the fingerprints to the Department of Law Enforcement for state processing, and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for national processing.

Fingerprint submission must comply with s. 435.12.

(16) “Secretary” means the Secretary of Children and Families.

(17) “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.

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

**History.**—s. 2, ch. 74-113; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 6, 7, ch. 83-248; s. 2, ch. 84-551; s. 23, ch. 85-54; s. 22, ch. 87-238; s. 2, ch. 88-391; s. 1, ch. 90-35; s. 34, ch. 90-306; s. 7, ch. 91-300; ss. 1, 2, ch. 93-115; s. 1, ch. 94-257; s. 1059, ch. 95-148; s. 57, ch. 95-228; s. 75, ch. 96-175; s. 1, ch. 97-63; s. 1, ch. 98-165; s. 8, ch. 99-304; s. 16, ch. 2000-253; s. 989, ch. 2002-387; s. 57, ch. 2004-267; s. 2, ch. 2006-91; s. 22, ch. 2010-114; s. 1, ch. 2010-158; s. 2, ch. 2011-75; s. 23, ch. 2013-252; s. 143, ch. 2014-19; s. 6, ch. 2015-79; s. 10, ch. 2016-238.

**402.3025 Public and nonpublic schools.**—For the purposes of ss. 402.301-402.319, the following shall apply:

(1) PUBLIC SCHOOLS.—

(a) The following programs for children shall not be deemed to be child care and shall not be subject to the provisions of ss. 402.301-402.319:

1. Programs for children in 5-year-old kindergarten and grades one or above.

2. Programs for children who are at least 3 years of age, but who are under 5 years of age, provided the programs are operated and staffed directly by the schools and provided the programs meet age-appropriate standards as adopted by the State Board of Education.

3. Programs for children under 3 years of age who are eligible for participation in the programs under the existing or successor provisions of Pub. L. No. 94-142 or Pub. L. No. 99-457, provided the programs are operated and staffed directly by the schools and provided the programs meet age-appropriate standards as adopted by the State Board of Education.

(b) The following programs for children shall be deemed to be child care and shall be subject to

the provisions of ss. 402.301-402.319:

1. Programs for children who are under 5 years of age when the programs are not operated and staffed directly by the schools.

2. Programs for children under 3 years of age who are not eligible for participation in the programs under existing or successor provisions of Pub. L. No. 94-142 or Pub. L. No. 99-457.

(c) The monitoring and enforcement of compliance with age-appropriate standards established by rule of the State Board of Education shall be the responsibility of the Department of Education.

(2) NONPUBLIC SCHOOLS.—

(a) Programs for children under 3 years of age shall be deemed to be child care and subject to the provisions of ss. 402.301-402.319.

(b) Programs for children in 5-year-old kindergarten and grades one or above shall not be deemed to be child care and shall not be subject to the provisions of ss. 402.301-402.319.

(c) Programs for children who are at least 3 years of age, but under 5 years of age, shall not be deemed to be child care and shall not be subject to the provisions of ss. 402.301-402.319 relating to child care facilities, provided the programs in the schools are operated and staffed directly by the schools, provided a majority of the children enrolled in the schools are 5 years of age or older, and provided there is compliance with the screening requirements for personnel pursuant to s. 402.305. A nonpublic school may designate certain programs as child care, in which case these programs shall be subject to the provisions of ss. 402.301-402.319.

(d)1. Programs for children who are at least 3 years of age, but under 5 years of age, which are not licensed under ss. 402.301-402.319 shall substantially comply with the minimum child care standards promulgated pursuant to ss. 402.305-402.3055.

2. The department or local licensing agency shall enforce compliance with such standards, where possible, to eliminate or minimize duplicative inspections or visits by staff enforcing the minimum child care standards and staff enforcing other standards under the jurisdiction of the department.

3. The department or local licensing agency may commence and maintain all proper and necessary actions and proceedings for any or all of the following purposes:

a. To protect the health, sanitation, safety, and well-being of all children under care.

b. To enforce its rules and regulations.

c. To use corrective action plans, whenever possible, to attain compliance prior to the use of more restrictive enforcement measures.

d. To make application for injunction to the proper circuit court, and the judge of that court shall have jurisdiction upon hearing and for cause shown to grant a temporary or permanent injunction, or both, restraining any person from violating or continuing to violate any of the provisions of ss. 402.301-402.319. Any violation of this section or of the standards applied under ss. 402.305-402.3055 which threatens harm to any child in the school's programs for children who are at least 3 years of age, but are under 5 years of age, or repeated violations of this section or the standards under ss. 402.305-402.3055, shall be grounds to seek an injunction to close a program in a school.

e. To impose an administrative fine, not to exceed \$100, for each violation of the minimum child

care standards promulgated pursuant to ss. 402.305-402.3055.

4. It is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, for any person willfully, knowingly, or intentionally to:

a. Fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose in any required written documentation for exclusion from licensure pursuant to this section a material fact used in making a determination as to such exclusion; or

b. Use information from the criminal records obtained under s. 402.305 or s. 402.3055 for any purpose other than screening that person for employment as specified in those sections or release such information to any other person for any purpose other than screening for employment as specified in those sections.

5. It is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, for any person willfully, knowingly, or intentionally to use information from the juvenile records of any person obtained under s. 402.305 or s. 402.3055 for any purpose other than screening for employment as specified in those sections or to release information from such records to any other person for any purpose other than screening for employment as specified in those sections.

(e) The department and the nonpublic school accrediting agencies are encouraged to develop agreements to facilitate the enforcement of the minimum child care standards as they relate to the schools which the agencies accredit.

(3) **INSPECTION FEE.**—The department shall establish a fee for inspection activities performed pursuant to this section, in an amount sufficient to cover costs. However, the amount of such fee for the inspection of a school shall not exceed the fee imposed for child care licensure pursuant to s. 402.315.

**History.**—s. 3, ch. 88-391; s. 1, ch. 89-296; s. 35, ch. 90-347; ss. 1, 2, ch. 93-115; s. 94, ch. 2000-349; s. 50, ch. 2013-18; s. 21, ch. 2016-238; s. 25, ch. 2017-3.

#### **402.3026 Full-service schools.—**

(1) The State Board of Education and the Department of Health shall jointly establish full-service schools to serve students from schools that have a student population that has a high risk of needing medical and social services, based on the results of the demographic evaluations. The full-service schools must integrate the services of the Department of Health that are critical to the continuity-of-care process. The Department of Health shall provide services to these high-risk students through facilities established within the grounds of the school. The Department of Health professionals shall carry out their specialized services as an extension of the educational environment. Such services may include, without limitation, nutritional services, basic medical services, aid to dependent children, parenting skills, counseling for abused children, counseling for children at high risk for delinquent behavior and their parents, and adult education.

(2) The Department of Health shall designate an executive staff director to coordinate the full-service schools program and to act as liaison with the Department of Education to coordinate the provision of health and rehabilitative services in educational facilities.

**History.**—s. 20, ch. 90-273; s. 122, ch. 94-209; s. 34, ch. 99-5; s. 146, ch. 99-8.

**402.305 Licensing standards; child care facilities.—**

(1) LICENSING STANDARDS.—The department shall establish licensing standards that each licensed child care facility must meet regardless of the origin or source of the fees used to operate the facility or the type of children served by the facility.

(a) The standards shall be designed to address the following areas:

1. The health, sanitation, safety, and adequate physical surroundings for all children in child care.
2. The health and nutrition of all children in child care.
3. The child development needs of all children in child care.

(b) All standards established under ss. 402.301-402.319 must be consistent with the rules adopted by the State Fire Marshal for child care facilities. However, if the facility is operated in a public school, the department shall use the public school fire code, as provided in the rules of the State Board of Education, as the minimum standard for fire safety.

(c) The minimum standards for child care facilities shall be adopted in the rules of the department and shall address the areas delineated in this section. The department, in adopting rules to establish minimum standards for child care facilities, shall recognize that different age groups of children may require different standards. The department may adopt different minimum standards for facilities that serve children in different age groups, including school-age children. The department shall also adopt by rule a definition for child care which distinguishes between child care programs that require child care licensure and after-school programs that do not require licensure. Notwithstanding any other provision of law to the contrary, minimum child care licensing standards shall be developed to provide for reasonable, affordable, and safe before-school and after-school care. After-school programs that otherwise meet the criteria for exclusion from licensure may provide snacks and meals through the federal Afterschool Meal Program (AMP) administered by the Department of Health in accordance with federal regulations and standards. The Department of Health shall consider meals to be provided through the AMP only if the program is actively participating in the AMP, is in good standing with the department, and the meals meet AMP requirements. Standards, at a minimum, shall allow for a credentialed director to supervise multiple before-school and after-school sites.

(2) PERSONNEL.—Minimum standards for child care personnel shall include minimum requirements as to:

(a) Good moral character based upon screening as defined in s. 402.302(15). This screening shall be conducted as provided in chapter 435, using the level 2 standards for screening set forth in that chapter, and include employment history checks, a search of criminal history records, sexual predator and sexual offender registries, and child abuse and neglect registry of any state in which the current or prospective child care personnel resided during the preceding 5 years.

(b) Fingerprint submission for child care personnel, which shall comply with s. 435.12.

(c) The department may grant exemptions from disqualification from working with children or the developmentally disabled as provided in s. 435.07.

(d) Minimum age requirements. Such minimum standards shall prohibit a person under the age of

21 from being the operator of a child care facility and a person under the age of 16 from being employed at such facility unless such person is under direct supervision and is not counted for the purposes of computing the personnel-to-child ratio.

(e) Minimum training requirements for child care personnel.

1. Such minimum standards for training shall ensure that all child care personnel take an approved 40-clock-hour introductory course in child care, which course covers at least the following topic areas:

a. State and local rules and regulations which govern child care.

b. Health, safety, and nutrition.

c. Identifying and reporting child abuse and neglect.

d. Child development, including typical and atypical language, cognitive, motor, social, and self-help skills development.

e. Observation of developmental behaviors, including using a checklist or other similar observation tools and techniques to determine the child's developmental age level.

f. Specialized areas, including computer technology for professional and classroom use and early literacy and language development of children from birth to 5 years of age, as determined by the department, for owner-operators and child care personnel of a child care facility.

g. Developmental disabilities, including autism spectrum disorder and Down syndrome, and early identification, use of available state and local resources, classroom integration, and positive behavioral supports for children with developmental disabilities. Within 90 days after employment, child care personnel shall begin training to meet the training requirements. Child care personnel shall successfully complete such training within 1 year after the date on which the training began, as evidenced by passage of a competency examination. Successful completion of the 40-clock-hour introductory course shall articulate into community college credit in early childhood education, pursuant to ss. 1007.24 and 1007.25. Exemption from all or a portion of the required training shall be granted to child care personnel based upon educational credentials or passage of competency examinations. Child care personnel possessing a 2-year degree or higher that includes 6 college credit hours in early childhood development or child growth and development, or a child development associate credential or an equivalent state-approved child development associate credential, or a child development associate waiver certificate shall be automatically exempted from the training requirements in sub-subparagraphs b., d., and e.

2. The introductory course in child care shall stress, to the extent possible, an interdisciplinary approach to the study of children.

3. The introductory course shall cover recognition and prevention of shaken baby syndrome; prevention of sudden infant death syndrome; recognition and care of infants and toddlers with developmental disabilities, including autism spectrum disorder and Down syndrome; and early childhood brain development within the topic areas identified in this paragraph.

4. On an annual basis in order to further their child care skills and, if appropriate, administrative skills, child care personnel who have fulfilled the requirements for the child care training shall be required to take an additional 1 continuing education unit of approved in-service training, or 10

clock hours of equivalent training, as determined by the department.

5. Child care personnel shall be required to complete 0.5 continuing education unit of approved training or 5 clock hours of equivalent training, as determined by the department, in early literacy and language development of children from birth to 5 years of age one time. The year that this training is completed, it shall fulfill the 0.5 continuing education unit or 5 clock hours of the annual training required in subparagraph 4.

6. Procedures for ensuring the training of qualified child care professionals to provide training of child care personnel, including onsite training, shall be included in the minimum standards. It is recommended that the state community child care coordination agencies (central agencies) be contracted by the department to coordinate such training when possible. Other district educational resources, such as community colleges and career programs, can be designated in such areas where central agencies may not exist or are determined not to have the capability to meet the coordination requirements set forth by the department.

7. Training requirements shall not apply to certain occasional or part-time support staff, including, but not limited to, swimming instructors, piano teachers, dance instructors, and gymnastics instructors.

8. The department shall evaluate or contract for an evaluation for the general purpose of determining the status of and means to improve staff training requirements and testing procedures. The evaluation shall be conducted every 2 years. The evaluation shall include, but not be limited to, determining the availability, quality, scope, and sources of current staff training; determining the need for specialty training; and determining ways to increase in-service training and ways to increase the accessibility, quality, and cost-effectiveness of current and proposed staff training. The evaluation methodology shall include a reliable and valid survey of child care personnel.

9. The child care operator shall be required to take basic training in serving children with disabilities within 5 years after employment, either as a part of the introductory training or the annual 8 hours of in-service training.

(f) Periodic health examinations.

(g) A credential for child care facility directors. The credential shall be a required minimum standard for licensing.

(3) **MINIMUM STAFF CREDENTIALS.**—For every 20 children in a licensed child care facility, if the facility operates 8 hours or more per week, one of the child care personnel in the facility must have:

(a) A child development associate credential;

(b) A child care professional credential, unless the department determines that such child care professional credential is not equivalent to or greater than a child development associate credential;  
or

(c) A credential that is equivalent to or greater than the credential required in paragraph (a) or paragraph (b).

The department shall establish by rule those hours of operation, such as during rest periods and transitional periods, when this subsection does not apply.

(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.

(b) This subsection does not apply to nonpublic schools and their integral programs as defined in s. 402.3025(2)(d)1. In addition, an individual participating in a community service program activity under s. 445.024(1)(e), or a work experience activity under s. 445.024(1)(f), at a child care facility may not be considered in calculating the staff-to-children ratio.

(5) PHYSICAL FACILITIES.—Minimum standards shall include requirements for building conditions, indoor play space, outdoor play space, napping space, bathroom facilities, food preparation facilities, outdoor equipment, and indoor equipment. Because of the nature and duration of drop-in child care, outdoor play space and outdoor equipment shall not be required for licensure; however, if such play space and equipment are provided, then the minimum standards shall apply to drop-in child care. With respect to minimum standards for physical facilities of a child care program for school-age children which is operated in a public school facility, the department shall adopt the State Uniform Building Code for Public Educational Facilities Construction as the minimum standards, regardless of the operator of the program. The Legislature intends that if a child care program for school-age children is operated in a public school, the program need not conform to standards for physical facilities other than the standards adopted by the Commissioner of Education.

(6) SQUARE FOOTAGE PER CHILD.—Minimum standards shall be established by the department by rule.

(a) A child care facility that holds a valid license on October 1, 1992, must have a minimum of 20 square feet of usable indoor floor space for each child and a minimum of 45 square feet of usable outdoor play area for each child. Outdoor play area shall be calculated at the rate of 45 feet per child in any group using the play area at one time. A minimum play area shall be provided for one half of the licensed capacity. This standard applies as long as the child care facility remains licensed at the site

occupied on October 1, 1992, and shall not be affected by any change in the ownership of the site.

(b) A child care facility that does not hold a valid license on October 1, 1992, and seeks regulatory approval to operate as a child care facility must have a minimum of 35 square feet of usable floor space for each child and a minimum of 45 square feet of usable outdoor play area for each child. The minimum standard for outdoor play area does not apply in calculating square footage for children under 1 year of age. However, appropriate outdoor infant equipment shall be substituted for outdoor play space. The centers shall provide facilities and equipment conducive to the physical activities appropriate for the age and physical development of the child.

(7) SANITATION AND SAFETY.—

(a) Minimum standards shall include requirements for sanitary and safety conditions, first aid treatment, emergency procedures, and pediatric cardiopulmonary resuscitation. The minimum standards shall require that at least one staff person trained in cardiopulmonary resuscitation, as evidenced by current documentation of course completion, must be present at all times that children are present.

(b) In the case of a child care program for school-age children attending before and after school programs on the public school site, the department shall use the public school fire code, as adopted in the rules of the State Board of Education, as the minimum standard for fire safety. In the case of a child care program for school-age children attending before-school and after-school programs on a site operated by a municipality, the department shall adopt rules for such site and intended use.

(c) Some type of communications system, such as a pocket pager or beeper, shall be provided to a parent whose child is in drop-in child care to ensure the immediate return of the parent to the child, if necessary.

(8) NUTRITIONAL PRACTICES.—Minimum standards shall include requirements for the provision of meals or snacks of a quality and quantity to assure that the nutritional needs of the child are met.

(9) ADMISSIONS AND RECORDKEEPING.—

(a) Minimum standards shall include requirements for preadmission and periodic health examinations, requirements for immunizations, and requirements for maintaining emergency information and health records on all children.

(b) During the months of August and September of each year, each child care facility shall provide parents of children enrolled in the facility detailed information regarding the causes, symptoms, and transmission of the influenza virus in an effort to educate those parents regarding the importance of immunizing their children against influenza as recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

(c) During the months of April and September of each year, at a minimum, each facility shall provide parents of children enrolled in the facility information regarding the potential for a distracted adult to fail to drop off a child at the facility and instead leave the child in the adult's vehicle upon arrival at the adult's destination. The child care facility shall also give parents information about resources with suggestions to avoid this occurrence. The department shall develop a flyer or brochure with this information that shall be posted to the department's website, which child care facilities may

choose to reproduce and provide to parents to satisfy the requirements of this paragraph.

(d) Because of the nature and duration of drop-in child care, requirements for preadmission and periodic health examinations and requirements for medically signed records of immunization required for child care facilities shall not apply. A parent of a child in drop-in child care shall, however, be required to attest to the child's health condition and the type and current status of the child's immunizations.

(e) Any child shall be exempt from medical or physical examination or medical or surgical treatment upon written request of the parent or guardian of such child who objects to the examination and treatment. However, the laws, rules, and regulations relating to contagious or communicable diseases and sanitary matters shall not be violated because of any exemption from or variation of the health and immunization minimum standards.

(10) TRANSPORTATION SAFETY.—

(a) Minimum standards shall include all of the following:

1. Requirements for child restraints or seat belts in vehicles used by child care facilities and large family child care homes to transport children.
2. Requirements for annual inspections of such vehicles.
3. Limitations on the number of children that may be transported in such vehicles.
4. Procedures to ensure that children are not inadvertently left in vehicles when transported by the facility or home and that systems are in place to ensure accountability for children transported by such facilities and homes.

(b) By January 1, 2022, all vehicles used by child care facilities and large family child care homes to transport children must be equipped with a reliable alarm system approved by the department which prompts the driver to inspect the vehicle for children before exiting the vehicle. The department shall adopt by rule minimum safety standards for such systems and shall maintain a list of approved alarm manufacturers and alarm systems that meet or exceed those standards.

(c) A child care facility or large family child care home is not responsible for the safe transport of children when they are being transported by a parent or guardian.

(11) ACCESS.—Minimum standards shall provide for reasonable access to the child care facility by the custodial parent or guardian during the time the child is in care.

(12) CHILD DISCIPLINE.—

(a) Minimum standards for child discipline practices shall ensure that age-appropriate, constructive disciplinary practices are used for children in care. Such standards shall include at least the following requirements:

1. Children shall not be subjected to discipline which is severe, humiliating, or frightening.
2. Discipline shall not be associated with food, rest, or toileting.
3. Spanking or any other form of physical punishment is prohibited.

(b) Prior to admission of a child to a child care facility, the facility shall notify the parents in writing of the disciplinary practices used by the facility.

(13) PLAN OF ACTIVITIES.—Minimum standards shall ensure that each child care facility has and

implements a written plan for the daily provision of varied activities and active and quiet play opportunities appropriate to the age of the child. The written plan must include a program, to be implemented periodically for children of an appropriate age, which will assist the children in preventing and avoiding physical and mental abuse.

(14) URBAN CHILD CARE FACILITIES.—Minimum standards shall include requirements for child care facilities located in urban areas. The standards must allow urban child care facilities to substitute indoor play space for outdoor play space, if outdoor play space is not available in the area, and must set forth additional requirements that apply to a facility which makes that substitution, including, but not limited to, additional square footage requirements for indoor space; air ventilation provisions; and a requirement to provide facilities and equipment conducive to physical activities appropriate for the age of the children.

(15) TRANSITION PERIODS.—During the periods of time in which children are arriving and departing from the child care facility, notwithstanding local fire ordinances, the provisions of subsection (6) are suspended for a period of time not to exceed 30 minutes.

(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.

(17) SPECIALIZED CHILD CARE FACILITIES FOR THE CARE OF MILDLY ILL CHILDREN.—Minimum standards shall be developed by the department, in conjunction with the Department of Health, for specialized child care facilities for the care of mildly ill children. The minimum standards shall address the following areas: personnel requirements; staff-to-child ratios; staff training and credentials; health and safety; physical facility requirements, including square footage; client eligibility, including a definition of “mildly ill children”; sanitation and safety; admission and recordkeeping; dispensing of medication; and a schedule of activities.

(18) TRANSFER OF OWNERSHIP.—

(a) One week prior to the transfer of ownership of a child care facility or family day care home, the transferor shall notify the parent or caretaker of each child of the impending transfer.

(b) The department shall, by rule, establish methods by which notice will be achieved and minimum standards by which to implement this subsection.

**History.**—s. 5, ch. 74-113; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 1, 6, 7, ch. 83-248; s. 3, ch. 84-551; s. 24, ch. 85-54; s. 41, ch. 87-225; s. 23, ch. 87-238; s. 25, ch. 89-379; s. 2, ch. 90-35; s. 2, ch. 90-225; s. 35, ch. 90-306; s. 10, ch. 91-33; s. 28, ch. 91-57; s. 92, ch. 91-221; s. 2, ch. 91-300; s. 56, ch. 92-58; ss. 1, 2, ch. 93-115; s. 14, ch. 93-156; s. 22, ch. 94-134; s. 22, ch. 94-135; s. 1060, ch. 95-148; s. 18, ch. 95-152; s. 15, ch. 95-158; s. 22, ch. 95-195; s. 41, ch. 95-228; s. 131, ch. 95-418; ss. 76, 77, ch. 96-175; s. 12, ch. 96-268; s. 2, ch. 97-63; s. 2, ch. 98-165; s. 1, ch. 99-241; s. 10, ch. 99-304; s. 164, ch. 2000-165; s. 19, ch. 2000-253; s. 18, ch. 2000-337; ss. 21, 26, ch. 2001-170; s. 2, ch. 2002-300; s. 40, ch. 2003-1; s. 1, ch. 2003-131; s. 3, ch. 2003-146; s. 10, ch. 2004-41; s. 1, ch. 2004-49; s. 58, ch. 2004-267; s. 15, ch. 2004-269; s. 32, ch. 2004-357; s. 7, ch. 2005-71; s. 12, ch. 2007-6; s. 3, ch. 2007-197; s. 1, ch. 2009-147; s. 3, ch. 2010-224; s. 24, ch. 2013-252; s. 16, ch. 2018-103; s. 68, ch. 2019-3; s. 2, ch. 2021-120.

**authorized.**—The Department of Children and Families may modify the 40-clock-hour introductory course in child care under s. 402.305 or s. 402.3131 to meet the requirements of articulating the course to community college credit. Any modification must continue to provide that the course satisfies the requirements of s. 402.305(2)(e).

**History.**—s. 4, ch. 2002-300; s. 144, ch. 2014-19; s. 17, ch. 2018-103.

**402.3054 Child enrichment service providers.**—

(1) For the purposes of this section, “child enrichment service provider” means an individual who provides enrichment activities, such as language training, music instruction, educational instruction, and other experiences, to specific children during a specific time that is not part of the regular program in a child care facility.

(2) The child’s parent shall provide written consent before a child may participate in activities conducted by a child enrichment service provider that are not part of the regular program of the child care facility. A child enrichment service provider receives compensation from the child’s parent or from the child care facility and shall not be considered a volunteer or child care personnel.

(3) A child enrichment service provider shall be of good moral character based upon screening. This screening shall be conducted as provided in chapter 435, using the level 2 standards for screening set forth in that chapter. A child enrichment service provider must meet the screening requirements prior to providing services to a child in a child care facility. A child enrichment service provider who has met the screening standards shall not be required to be under the direct and constant supervision of child care personnel.

**History.**—s. 18, ch. 2000-253; s. 59, ch. 2004-267.

**402.3055 Child care personnel requirements.**—

(1) **REQUIREMENTS FOR CHILD CARE PERSONNEL.**—

(a) The department or local licensing agency shall require 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 shall 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 shall 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.

(b) The child care facility employer shall require that the application for a child care personnel position contain a question that specifically asks the applicant if he or she has ever worked in a facility that has 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 shall attest to the accuracy of the information requested under penalty of perjury. If the applicant

admits that he or she has been a party in such action, the employer shall review the nature of the denial, suspension, revocation, disciplinary action, or fine before the applicant is hired.

(2) EXCLUSION FROM OWNING, OPERATING, OR BEING EMPLOYED BY A CHILD CARE FACILITY OR OTHER CHILD CARE PROGRAM; HEARINGS PROVIDED.—

(a) The department or local licensing agency shall deny, suspend, or revoke a license or pursue other remedies provided in s. 402.310, s. 402.312, or s. 402.319 in addition to or in lieu of denial, suspension, or revocation for failure to comply with this section. The disciplinary actions determination to be made by the department or the local licensing agency and the procedure for hearing for applicants and licensees shall be in accordance with s. 402.310.

(b) When the department or the local licensing agency has reasonable cause to believe that grounds for denial or termination of employment exist, it shall notify, in writing, the applicant, licensee, or other child care program and the child care personnel affected, stating the specific record which indicates noncompliance with the standards in s. 402.305(2).

(c) When the department is the agency initiating the statement regarding noncompliance, the procedures established for hearing under chapter 120 shall be available to the applicant, licensee, or other child care program and to the affected child care personnel, in order to present evidence relating either to the accuracy of the basis of exclusion or to the denial of an exemption from disqualification.

(d) When a local licensing agency is the agency initiating the statement regarding noncompliance of an employee with the standards contained in s. 402.305(2), the employee, applicant, licensee, or other child care program has 15 days from the time of written notification of the agency's finding to make a written request for a hearing. If a request for a hearing is not received in that time, the permanent employee, applicant, licensee, or other child care program is presumed to accept the finding.

(e) If a request for a hearing is made to the local licensing agency, a hearing shall be held within 30 days and shall be conducted by an individual designated by the county commission.

(f) An employee, applicant, licensee, or other child care program shall have the right to appeal a finding of the local licensing agency to a representative of the department. Any required hearing shall be held in the county in which the permanent employee is employed. The hearing shall be conducted in accordance with the provisions of chapter 120.

(g) Refusal on the part of an applicant or licensee to dismiss child care personnel who have been found to be in noncompliance with personnel standards of s. 402.305(2) shall result in automatic denial or revocation of the license in addition to any other remedies pursued by the department or local licensing agency.

**History.**—ss. 4, 19, ch. 84-551; s. 25, ch. 85-54; s. 24, ch. 87-238; ss. 36, 61, ch. 90-306; s. 36, ch. 90-347; ss. 1, 2, ch. 93-115; s. 811, ch. 95-148; s. 58, ch. 95-228; s. 7, ch. 95-407; s. 223, ch. 99-13; s. 12, ch. 99-304.

**agency of information on child care.—**

- (1) Any county whose licensing standards meet or exceed state minimum standards may:
  - (a) Designate a local licensing agency to license child care facilities in the county; or
  - (b) Contract with the department to delegate the administration of state minimum standards in the county to the department.
- (2) Child care facilities in any county whose standards do not meet or exceed state minimum standards shall be subject to licensing by the department under state minimum standards.
- (3) The department and local licensing agencies, or the designees thereof, shall be responsible for coordination and dissemination of information on child care to the community and shall make available through electronic means all licensing standards and procedures, health and safety standards for school readiness providers, monitoring and inspection reports, and the names and addresses of licensed child care facilities, school readiness program providers, and, where applicable pursuant to s. 402.313, licensed or registered family day care homes. This information shall also include the number of deaths, serious injuries, and instances of substantiated child abuse that have occurred in child care settings each year; research and best practices in child development; and resources regarding social-emotional development, parent and family engagement, healthy eating, and physical activity.

**History.**—s. 6, ch. 74-113; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 6, 7, ch. 83-248; s. 5, ch. 84-551; ss. 1, 2, ch. 93-115; s. 12, ch. 2016-238.

**402.307 Approval of licensing agency.—**

- (1) Within 30 days after the promulgation of state minimum standards, each county shall provide the department with a copy of its standards if they differ from the state minimum standards. At the same time, each county shall provide the department with the administrative procedures it intends to use for the licensing of child care facilities.
- (2) The department shall have the authority to determine if local standards meet or exceed state minimum standards. Within 60 days after the county has submitted its standards and procedures, the department, upon being satisfied that such standards meet or exceed state minimum standards and that there is compliance with all provisions of ss. 402.301-402.319, shall approve the local licensing agency.
- (3) Approval to issue licenses for the department shall be renewed annually. For renewal, the local licensing agency shall submit to the department a copy of the licensing standards and procedures applied. An onsite review may be made if deemed necessary by the department.
- (4) If, following an onsite review, the department finds the local licensing agency is not applying the approved standards, the department shall report the specific violations to the county commission of the involved county which shall investigate the violations and take whatever action necessary to correct them.
- (5) To ensure that accurate statistical data are available, each local licensing agency shall 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.

**History.**—s. 7, ch. 74-113; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 6, 7, ch. 83-248; s. 6, ch. 84-551; ss. 1, 2, ch. 93-115.

**402.308 Issuance of license.—**

(1) ANNUAL LICENSING.—Every child care facility in the state shall have a license which shall be renewed annually.

(2) CHANGE OF OWNERSHIP.—Every child care facility shall reapply for and receive a license prior to the time a new owner assumes responsibility for the facility. The department shall grant or deny the reapplication for license within 45 days from the date upon which the child care facility reapplies.

(3) STATE ADMINISTRATION OF LICENSING.—In any county in which the department has the authority to issue licenses, the following procedures shall be applied:

(a) Application for a license or for a renewal of a license to operate a child care facility shall be made in the manner and on the forms prescribed by the department. The applicant's social security number shall be included on the form submitted to the department. Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each applicant is required to provide his or her social security number in accordance with this section. Disclosure of social security numbers obtained through this requirement shall be limited to the purpose of administration of the Title IV-D program for child support enforcement.

(b) Prior to the renewal of a license, the department shall reexamine the child care facility, including in that process the examination of the premises and those records of the facility as required under s. 402.305, to determine that minimum standards for licensing continue to be met.

(c) The department shall coordinate all inspections of child care facilities. A child care facility is not required to implement a recommendation of one agency that is in conflict with a recommendation of another agency if such conflict arises due to uncoordinated inspections. Any conflict in recommendations shall be resolved by the secretary of the department within 15 days after written notice that such conflict exists.

(d) The department shall issue or renew a license upon receipt of the license fee and upon being satisfied that all standards required by ss. 402.301-402.319 have been met. A license may be issued if all the screening materials have been timely submitted; however, a license may not be issued or renewed if any of the child care personnel at the applicant facility have failed the screening required by ss. 402.305(2) and 402.3055.

(4) LOCAL ADMINISTRATION OF LICENSING.—In any county in which there is a local licensing agency approved by the department, the following procedures shall apply:

(a) Application for a license or for renewal of license to operate a child care facility shall be made in the manner and on the forms prescribed by the local licensing agency.

(b) Prior to the renewal of a license, the agency shall reexamine the child care facility, including in that process the examination of the premises and records of the facility as required in s. 402.305 to determine that minimum standards for licensing continue to be met.

(c) The local agency shall coordinate all inspections of child care facilities. A child care facility is

not required to implement a recommendation of one agency that is in conflict with a recommendation of another agency if such conflict arises due to uncoordinated inspections. Any conflict in recommendations shall be resolved by the county commission or its representative within 15 days after written notice that such conflict exists.

(d) The local licensing agency shall issue a license or renew a license upon being satisfied that all standards required by ss. 402.301-402.319 have been met. A license may be issued or renewed if all the screening materials have been timely submitted; however, the local licensing agency shall not issue or renew a license if any of the child care personnel at the applicant facility have failed the screening required by ss. 402.305(2) and 402.3055.

(5) ISSUANCE OF LOCAL OCCUPATIONAL LICENSES.—No county or municipality shall issue an occupational license which is being obtained for the purpose of operating a child care facility regulated under this act without first ascertaining that the applicant has been licensed to operate such facility at the specified location or locations by the department or local licensing agency. The department or local licensing agency shall furnish to local agencies responsible for issuing occupational licenses sufficient instruction for making the above required determinations.

**History.**—s. 8, ch. 74-113; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 2, 6, 7, ch. 83-248; s. 7, ch. 84-551; s. 26, ch. 85-54; s. 25, ch. 87-238; ss. 1, 2, ch. 93-115; s. 44, ch. 97-170; s. 225, ch. 99-13.

#### **402.309 Provisional license or registration.—**

(1) The local licensing agency or the department, whichever is authorized to license child care facilities in a county, may issue a provisional license for child care facilities, family day care homes, or large family child care homes, or a provisional registration for family day care homes to applicants for an initial license or registration or to licensees or registrants seeking a renewal who are unable to meet all the standards provided for in ss. 402.301-402.319.

(2) A provisional license or registration may not be issued unless the operator or owner makes adequate provisions for the health and safety of the child. A provisional license may be issued for a child care facility if all of the screening materials have been timely submitted. A provisional license or registration may not be issued unless the child care facility, family day care home, or large family child care home is in compliance with the requirements for screening of child care personnel in ss. 402.305, 402.3055, 402.313, and 402.3131, respectively.

(3) The provisional license or registration may not be issued for a period that exceeds 6 months; however, it may be renewed one time for a period that may not exceed 6 months under unusual circumstances beyond the control of the applicant.

(4) The provisional license or registration may be suspended or revoked if periodic inspection or review by the local licensing agency or the department indicates that insufficient progress has been made toward compliance.

(5) The department shall adopt rules specifying the conditions and procedures under which a provisional license or registration may be issued, suspended, or revoked.

**History.**—s. 9, ch. 74-113; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 6, 7, ch. 83-248; s. 8, ch. 84-551; s. 27, ch. 85-54; s. 26, ch. 87-238; ss. 1, 2, ch. 93-115; s. 7, ch. 2006-91.

**402.310 Disciplinary actions; hearings upon denial, suspension, or revocation of license or registration; administrative fines.—**

(1)(a) The department or local licensing agency may administer any of the following disciplinary sanctions for a violation of any provision of ss. 402.301-402.319, or the rules adopted thereunder:

1. Impose an administrative fine not to exceed \$100 per violation, per day. However, if the violation could or does cause death or serious harm, the department or local licensing agency may impose an administrative fine, not to exceed \$500 per violation per day in addition to or in lieu of any other disciplinary action imposed under this section.

2. Convert a license or registration to probation status and require the licensee or registrant to comply with the terms of probation. A probation-status license or registration may not be issued for a period that exceeds 6 months and the probation-status license or registration may not be renewed. A probation-status license or registration may be suspended or revoked if periodic inspection by the department or local licensing agency finds that the probation-status licensee or registrant is not in compliance with the terms of probation or that the probation-status licensee or registrant is not making sufficient progress toward compliance with ss. 402.301-402.319.

3. Deny, suspend, or revoke a license or registration.

(b) In determining the appropriate disciplinary action to be taken for a violation as provided in paragraph (a), the following factors shall be considered:

1. The severity of the violation, including the probability that death or serious harm to the health or safety of any person will result or has resulted, the severity of the actual or potential harm, and the extent to which the provisions of ss. 402.301-402.319 have been violated.

2. Actions taken by the licensee or registrant to correct the violation or to remedy complaints.

3. Any previous violations of the licensee or registrant.

(c) The department shall adopt rules to:

1. Establish the grounds under which the department may deny, suspend, or revoke a license or registration or place a licensee or registrant on probation status for violations of ss. 402.301-402.319.

2. Establish a uniform system of procedures to impose disciplinary sanctions for violations of ss. 402.301-402.319. The uniform system of procedures must provide for the consistent application of disciplinary actions across districts and a progressively increasing level of penalties from pre-disciplinary actions, such as efforts to assist licensees or registrants to correct the statutory or regulatory violations, and to severe disciplinary sanctions for actions that jeopardize the health and safety of children, such as for the deliberate misuse of medications.

(d) The disciplinary sanctions set forth in this section apply to licensed child care facilities, licensed large family child care homes, and licensed or registered family day care homes.

(2) When the department has reasonable cause to believe that grounds exist for the denial, suspension, or revocation of a license or registration; the conversion of a license or registration to probation status; or the imposition of an administrative fine, it shall determine the matter in accordance with procedures prescribed in chapter 120. When the local licensing agency has reasonable

cause to believe that grounds exist for the denial, suspension, or revocation of a license or registration; the conversion of a license or registration to probation status; or the imposition of an administrative fine, it shall notify the applicant, registrant, or licensee in writing, stating the grounds upon which the license or registration is being denied, suspended, or revoked or an administrative fine is being imposed. If the applicant, registrant, or licensee makes no written request for a hearing to the local licensing agency within 15 days after receipt of the notice, the license shall be deemed denied, suspended, or revoked; the license or registration shall be converted to probation status; or an administrative fine shall be imposed.

(3) If a request for a hearing is made to the local licensing agency, a hearing shall be held within 30 days and shall be conducted by an individual designated by the county commission.

(4) An applicant, registrant, or licensee shall have the right to appeal a decision of the local licensing agency to a representative of the department. Any required hearing shall be held in the county in which the child care facility, family day care home, or large family child care home is being operated or is to be established. The hearing shall be conducted in accordance with the provisions of chapter 120.

**History.**—s. 10, ch. 74-113; s. 3, ch. 76-168; s. 1, ch. 77-117; s. 1, ch. 77-457; s. 19, ch. 78-95; ss. 2, 3, ch. 81-318; ss. 3, 6, 7, ch. 83-248; s. 9, ch. 84-551; s. 42, ch. 87-225; s. 37, ch. 90-306; ss. 1, 2, ch. 93-115; s. 24, ch. 2000-153; s. 3, ch. 2006-91; s. 69, ch. 2019-3.

#### **402.311 Inspection.—**

(1) A licensed child care facility shall accord to the department or the local licensing agency, whichever is applicable, the privilege of inspection, including access to facilities and personnel and to those records required in s. 402.305, at reasonable times during regular business hours, to ensure compliance with ss. 402.301-402.319. The right of entry and inspection shall also extend to any premises which the department or local licensing agency has reason to believe are being operated or maintained as a child care facility without a license, but no such entry or inspection of any premises shall be made without the permission of the person in charge thereof unless a warrant is first obtained from the circuit court authorizing such entry or inspection. Any application for a license or renewal made pursuant to this act or the advertisement to the public for the provision of child care as defined in s. 402.302 shall constitute permission for any entry or inspection of the premises for which the license is sought in order to facilitate verification of the information submitted on or in connection with the application. In the event a licensed facility refuses permission for entry or inspection to the department or local licensing agency, a warrant shall be obtained from the circuit court authorizing entry or inspection before such entry or inspection. The department or local licensing agency may institute disciplinary proceedings pursuant to s. 402.310 for such refusal.

(2) A school readiness program provider shall accord to the department or the local licensing agency, whichever is applicable, the privilege of inspection, including access to facilities, personnel, and records, to verify compliance with the requirements of s. 1002.88. Entry, inspection, and issuance of an inspection report by the department or the local licensing agency to verify compliance with the requirements of s. 1002.88 is an exercise of a discretionary power to enforce compliance with the

laws duly enacted by a governmental body.

(3) The department's issuance, transmittal, or publication of an inspection report resulting from an inspection under this section does not constitute agency action subject to chapter 120.

**History.**—s. 11, ch. 74-113; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 6, 7, ch. 83-248; s. 10, ch. 84-551; s. 61, ch. 90-306; ss. 1, 2, ch. 93-115; s. 13, ch. 2016-238.

**402.3115 Elimination of duplicative and unnecessary inspections; abbreviated inspections.**—

The Department of Children and Families and local governmental agencies that license child care facilities shall develop and implement a plan to eliminate duplicative and unnecessary inspections of child care facilities. In addition, the department and the local governmental agencies shall develop and implement an abbreviated inspection plan for child care facilities that have had no Class 1 or Class 2 deficiencies, as defined by rule, for at least 2 consecutive years. The abbreviated inspection must include those elements identified by the department and the local governmental agencies as being key indicators of whether the child care facility continues to provide quality care and programming.

**History.**—s. 79, ch. 96-175; s. 147, ch. 99-8; s. 226, ch. 99-13; s. 145, ch. 2014-19.

**402.312 License required; injunctive relief.**—

(1) The operation of a child care facility without a license, a family day care home without a license or registration, or a large family child care home without a license is prohibited. If the department or the local licensing agency discovers that a child care facility is being operated without a license, a family day care home is being operated without a license or registration, or a large family child care home is being operated without a license, the department or local licensing agency is authorized to seek an injunction in the circuit court where the facility is located to enjoin continued operation of such facility, family day care home, or large family child care home. When the court is closed for the transaction of judicial business, the department or local licensing agency is authorized to seek an emergency injunction to enjoin continued operation of such unlicensed facility, unregistered or unlicensed family day care home, or unlicensed large family child care home, which injunction shall be continued, modified, or revoked on the next day of judicial business.

(2) Other grounds for seeking an injunction to close a child care facility, family day care home, or a large family child care home are that:

(a) There is any violation of the standards applied under ss. 402.301-402.319 which threatens harm to any child in the child care facility, a family day care home, or large family child care home.

(b) A licensee or registrant has repeatedly violated the standards provided for under ss. 402.301-402.319.

(c) A child care facility, family day care home, or large family child care home continues to have children in attendance after the closing date established by the department or the local licensing agency.

(3) The department or local licensing agency may impose an administrative fine on any child care facility, family day care home, or large family child care home operating without a license or

registration, consistent with the provisions of s. 402.310.

**History.**—s. 12, ch. 74-113; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 4, 6, 7, ch. 83-248; s. 11, ch. 84-551; s. 61, ch. 90-306; ss. 1, 2, ch. 93-115; s. 2, ch. 2003-131.

**402.3125 Display and appearance of license; posting of violations; information to be provided to parents.—**

(1)(a) Upon receipt of a license issued under s. 402.308 or s. 402.309, the child care facility shall display such license in a conspicuous place within the facility.

(b)1. In addition to posting the license as required under paragraph (a), the child care facility shall post with the license:

a. Each citation for a violation of any standard or requirement of ss. 402.301-402.319 that has resulted in disciplinary action under s. 402.310 or s. 402.312.

b. An explanation, written in simple language, of each citation.

c. A description, written in simple language, of the corrective action, if any, taken by the facility for each citation. Included in the description shall be the dates on which the corrective action was taken.

2. Each citation, explanation, and description of corrective action shall remain posted for 1 year after the citation's effective date.

(2) The department shall ensure that every license it issues under s. 402.308 or s. 402.309 bears the distinctive seals of the State of Florida and of the department and is clearly recognizable by its size, color, seals, and contents to be a state license or provisional license for a child care facility.

(3) Each local licensing agency shall ensure that every license it issues under s. 402.308 or s. 402.309 bears the distinctive seals of the issuing county and of the department and is clearly recognizable by its size, color, seals, and contents to be a county license or provisional license for a child care facility. Noncompliance by a local licensing agency shall be deemed by the department to be failure to meet minimum state standards and shall result in the department immediately assuming licensure authority in the county.

(4) Any license issued pursuant to subsection (2) or subsection (3) shall include the name, address, and telephone number of the licensing agency.

(5) The department shall develop a model brochure for distribution by the department and by local licensing agencies to every child care facility in the state. Pursuant thereto:

(a) Upon receipt of such brochures, each child care facility shall provide a copy of same to every parent, guardian, or other person having entered a child in such facility. Thereafter, a copy of such brochure shall be provided to every parent, guardian, or other person entering a child in such facility upon entrance of the child or prior thereto.

(b) Each child care facility shall certify to the department or local licensing agency, whichever is appropriate, that it has so provided and will continue to so provide such brochures, which certification shall operate as a condition upon issuance and renewal of licensure. Noncompliance by any child care facility shall be grounds for sanction as provided in ss. 402.310 and 402.312.

(c) The brochure shall, at a minimum, contain the following information:

1. A statement that the facility is licensed and has met state standards for licensure as established by s. 402.305 or that the facility is licensed by a local licensing agency and has met or exceeded the state standards, pursuant to ss. 402.306 and 402.307. Such statement shall include a listing of specific standards that licensed facilities must meet pursuant to s. 402.305.

2. A statement indicating that information about the licensure status of the child care facility can be obtained by telephoning the department office or the office of the local licensing agency issuing the license at a telephone number or numbers which shall be printed upon or otherwise affixed to the brochure.

3. The statewide toll-free telephone number of the central abuse hotline, together with a notice that reports of suspected and actual cases of child physical abuse, sexual abuse, and neglect are received and referred for investigation by the hotline.

4. The date that the current license for the facility was issued and the date of its scheduled expiration if it is not renewed.

5. Any other information relating to competent child care that the department deems would be helpful to parents and other caretakers in their selection of a child care facility.

(d) The department shall prepare a brochure containing substantially the same information as specified in paragraph (c) and shall make such brochure available to all interested persons, including physicians and other health professionals; mental health professionals; school teachers or other school personnel; social workers or other professional child care, foster care, residential, or institutional workers; and law enforcement officers.

**History.**—ss. 12, 19, ch. 84-551; s. 43, ch. 87-225; s. 61, ch. 90-306; ss. 1, 2, ch. 93-115; s. 1, ch. 95-329; s. 95, ch. 2000-349.

#### **402.313 Family day care homes.—**

(1) Family day care homes shall be licensed under this act if they are presently being licensed under an existing county licensing ordinance or if the board of county commissioners passes a resolution that family day care homes be licensed.

(a) If not subject to license, family day care homes shall register annually with the department, providing the following information:

1. The name and address of the home.

2. The name of the operator.

3. The number of children served.

4. Proof of a written plan to provide at least one other competent adult to be available to substitute for the operator in an emergency. This plan shall include the name, address, and telephone number of the designated substitute.

5. Proof of screening and background checks.

6. Proof of successful completion of the 30-hour training course, as evidenced by passage of a competency examination, which shall include:

a. State and local rules and regulations that govern child care.

- b. Health, safety, and nutrition.
- c. Identifying and reporting child abuse and neglect.
- d. Child development, including typical and atypical language development; and cognitive, motor, social, and self-help skills development.
- e. Observation of developmental behaviors, including using a checklist or other similar observation tools and techniques to determine a child's developmental level.

f. Specialized areas, including early literacy and language development of children from birth to 5 years of age, as determined by the department, for owner-operators of family day care homes.

7. Proof that immunization records are kept current.

8. Proof of completion of the required continuing education units or clock hours.

(b) A family day care home may volunteer to be licensed under this act.

(c) The department may provide technical assistance to counties and family day care home providers to enable counties and family day care providers to achieve compliance with family day care homes standards.

(2) This information shall be included in a directory to be published annually by the department to inform the public of available child care facilities.

(3) Child care personnel in family day care homes shall be subject to the applicable screening provisions contained in ss. 402.305(2) 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.

(4) Operators of family day care homes must successfully complete an approved 30-clock-hour introductory course in child care, as evidenced by passage of a competency examination, before caring for children.

(5) In order to further develop their child care skills and, if appropriate, their administrative skills, operators of family day care homes shall be required to complete an additional 1 continuing education unit of approved training or 10 clock hours of equivalent training, as determined by the department, annually.

(6) Operators of family day care homes shall be required to complete 0.5 continuing education unit of approved training in early literacy and language development of children from birth to 5 years of age one time. The year that this training is completed, it shall fulfill the 0.5 continuing education unit or 5 clock hours of the annual training required in subsection (5).

(7) Operators of family day care homes shall be required annually to complete a health and safety home inspection self-evaluation checklist developed by the department in conjunction with the statewide resource and referral program. The completed checklist shall be signed by the operator of the family day care home and provided to parents as certification that basic health and safety standards are being met.

(8) Family day care home operators may avail themselves of supportive services offered by the department.

(9) The department shall prepare a brochure on family day care for distribution by the department and by local licensing agencies, if appropriate, to family day care homes for distribution to parents utilizing such child care, and to all interested persons, including physicians and other health professionals; mental health professionals; school teachers or other school personnel; social workers or other professional child care, foster care, residential, or institutional workers; and law enforcement officers. The brochure shall, at a minimum, contain the following information:

(a) A brief description of the requirements for family day care registration, training, and fingerprinting and screening.

(b) A listing of those counties that require licensure of family day care homes. Such counties shall provide an addendum to the brochure that provides a brief description of the licensure requirements or may provide a brochure in lieu of the one described in this subsection, provided it contains all the required information on licensure and the required information in the subsequent paragraphs.

(c) A statement indicating that information about the family day care home's compliance with applicable state or local requirements can be obtained by telephoning the department office or the office of the local licensing agency, if appropriate, at a telephone number or numbers which shall be affixed to the brochure.

(d) The statewide toll-free telephone number of the central abuse hotline, together with a notice that reports of suspected and actual child physical abuse, sexual abuse, and neglect are received and referred for investigation by the hotline.

(e) Any other information relating to competent child care that the department or local licensing agency, if preparing a separate brochure, deems would be helpful to parents and other caretakers in their selection of a family day care home.

(10) On an annual basis, the department shall evaluate the registration and licensure system for family day care homes. Such evaluation shall, at a minimum, address the following:

(a) The number of family day care homes registered and licensed and the dates of such registration and licensure.

(b) The number of children being served in both registered and licensed family day care homes and any available slots in such homes.

(c) The number of complaints received concerning family day care, the nature of the complaints, and the resolution of such complaints.

(d) The training activities utilized by child care personnel in family day care homes for meeting the state or local training requirements. The evaluation shall be utilized by the department in any administrative modifications or adjustments to be made in the registration of family day care homes or in any legislative requests for modifications to the system of registration or to other requirements for family day care homes.

(11) In order to inform the public of the state requirement for registration of family day care homes as well as the other requirements for such homes to legally operate in the state, the

department shall institute a media campaign to accomplish this end. Such a campaign shall include, at a minimum, flyers, newspaper advertisements, radio advertisements, and television advertisements.

(12) Notwithstanding any other state or local law or ordinance, any family day care home licensed pursuant to this chapter or pursuant to a county ordinance shall be charged the utility rates accorded to a residential home. A licensed family day care home may not be charged commercial utility rates.

(13) 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, training, maintenance of immunization records, minimum health and safety standards, reduced standards for the regulation of child care during evening hours by municipalities and counties, and enforcement of standards.

(14) During the months of August and September of each year, each family day care home shall provide parents of children enrolled in the home detailed information regarding the causes, symptoms, and transmission of the influenza virus in an effort to educate those parents regarding the importance of immunizing their children against influenza as recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

(15) During the months of April and September of each year, at a minimum, each family day care home shall provide parents of children attending the family day care home information regarding the potential for a distracted adult to fail to drop off a child at the family day care home and instead leave the child in the adult's vehicle upon arrival at the adult's destination. The family day care home shall also give parents information about resources with suggestions to avoid this occurrence. The department shall develop a flyer or brochure with this information that shall be posted to the department's website, which family day care homes may choose to reproduce and provide to parents to satisfy the requirements of this subsection.

**History.**—s. 13, ch. 74-113; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 6, 7, ch. 83-248; s. 28, ch. 85-54; s. 44, ch. 87-225; s. 27, ch. 87-238; s. 38, ch. 90-306; s. 3, ch. 91-300; ss. 1, 2, ch. 93-115; s. 46, ch. 95-196; s. 59, ch. 95-228; s. 80, ch. 96-175; s. 3, ch. 97-63; s. 39, ch. 97-173; s. 14, ch. 99-304; s. 96, ch. 2000-349; s. 62, ch. 2002-1; s. 3, ch. 2002-300; s. 3, ch. 2003-131; s. 4, ch. 2006-91; s. 2, ch. 2009-147; s. 11, ch. 2010-210; s. 18, ch. 2018-103.

#### **402.3131 Large family child care homes.—**

(1) Large family child care homes shall be licensed under this section.

(a) A licensed family day care home must first have operated for a minimum of 2 consecutive years, with an operator who has had a child development associate credential or its equivalent for 1 year, before seeking licensure as a large family child care home.

(b) The department may provide technical assistance to counties and family day care home providers to enable the counties and providers to achieve compliance with minimum standards for large family child care homes.

(2) Child care personnel in large family child care homes shall be subject to the applicable screening provisions contained in ss. 402.305(2) and 402.3055. For purposes of screening child care personnel in large family child care homes, the term “child care personnel” includes any member of a

large family child care home operator's family 12 years of age or older, or any person 12 years of age or older residing with the operator in the large family child 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, inclusive, shall not be required to be fingerprinted, but shall be screened for delinquency records.

(3) Operators of large family child care homes must successfully complete an approved 40-clock-hour introductory course in group child care, as evidenced by passage of a competency examination. Successful completion of the 40-clock-hour introductory course shall articulate into community college credit in early childhood education, pursuant to ss. 1007.24 and 1007.25.

(4) In order to further develop their child care skills and, if appropriate, their administrative skills, operators of large family child care homes who have completed the required introductory course shall be required to complete an additional 1 continuing education unit of approved training or 10 clock hours of equivalent training, as determined by the department, annually.

(5) Operators of large family child care homes shall be required to complete 0.5 continuing education unit of approved training or 5 clock hours of equivalent training, as determined by the department, in early literacy and language development of children from birth to 5 years of age one time. The year that this training is completed, it shall fulfill the 0.5 continuing education unit or 5 clock hours of the annual training required in subsection (4).

(6) The department shall prepare a brochure on large family child care homes for distribution to the general public.

(7) The department shall, by rule, establish minimum standards for large family child care homes. The standards shall include, at a minimum, requirements for staffing, maintenance of immunization records, minimum health standards, minimum safety standards, minimum square footage, and enforcement of standards.

(8) Prior to being licensed by the department, large family child care homes must be approved by the state or local fire marshal in accordance with standards established for child care facilities.

(9) During the months of August and September of each year, each large family child care home shall provide parents of children enrolled in the home detailed information regarding the causes, symptoms, and transmission of the influenza virus in an effort to educate those parents regarding the importance of immunizing their children against influenza as recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

(10) During the months of April and September of each year, at a minimum, each large family child care home shall provide parents of children attending the large family child care home information regarding the potential for a distracted adult to fail to drop off a child at the large family child care home and instead leave the child in the adult's vehicle upon arrival at the adult's destination. The large family child care home shall also give parents information about resources with suggestions to avoid this occurrence. The department shall develop a flyer or brochure with this information that shall be posted to the department's website, which large family child care homes may choose to reproduce and provide to parents to satisfy the requirements of this subsection.

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**402.314 Supportive services.**—The department shall provide consultation services, technical assistance, and inservice training, when requested and as available, to operators, licensees, registrants, and applicants to help improve programs, homes, and facilities for child care, and shall work cooperatively with other organizations and agencies concerned with child care.

**History.**—s. 13, ch. 74-113; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 6, 7, ch. 83-248; s. 29, ch. 85-54; ss. 1, 2, ch. 93-115.

**402.315 Funding; license fees.**—

(1) If the county designates a local agency to be responsible for the licensing of child care facilities, the county shall bear at least 75 percent of the costs involved.

(2) The department shall bear the costs of the licensing of child care facilities when contracted to do so by a county or when directly responsible for licensing in a county which fails to meet or exceed state minimum standards.

(3) The department shall collect a fee for any license it issues for a child care facility, family day care home, or large family child care home pursuant to ss. 402.305, 402.313, and 402.3131.

(a) For a child care facility licensed pursuant to s. 402.305, such fee shall be \$1 per child, based on the licensed capacity of the facility, except that the minimum fee shall be \$25 per facility and the maximum fee shall be \$100 per facility.

(b) For a family day care home registered pursuant to s. 402.313, such fee shall be \$25.

(c) For a family day care home licensed pursuant to s. 402.313, such fee shall be \$50.

(d) For a large family child care home licensed pursuant to s. 402.3131, such fee shall be \$60.

(4) Any county may collect a fee for any license it issues pursuant to s. 402.308.

(5) All moneys collected by the department for child care licensing shall be held in a trust fund of the department to be reallocated to the department during the following fiscal year to fund child care licensing activities, including the Gold Seal Quality Care program created pursuant to s. 1002.945.

**History.**—s. 15, ch. 74-113; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 5, 6, 7, ch. 83-248; s. 13, ch. 84-551; s. 30, ch. 85-54; ss. 1, 2, ch. 93-115; s. 81, ch. 96-175; s. 14, ch. 2010-210; s. 12, ch. 2021-10.

**402.316 Exemptions.**—

(1) The provisions of ss. 402.301-402.319, except for the requirements regarding screening of child care personnel, shall not apply to a child care facility which is an integral part of church or parochial schools conducting regularly scheduled classes, courses of study, or educational programs accredited by, or by a member of, an organization which publishes and requires compliance with its standards for health, safety, and sanitation. However, such facilities shall meet minimum requirements of the applicable local governing body as to health, sanitation, and safety and shall meet the screening requirements pursuant to ss. 402.305 and 402.3055. Failure by a facility to comply with such screening requirements shall result in the loss of the facility's exemption from licensure.

(2) Any county or city with state or local child care licensing programs in existence on July 1, 1974, will continue to license the child care facilities as covered by such programs, notwithstanding the

provisions of subsection (1), until and unless the licensing agency makes a determination to exempt them.

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

**History.**—s. 16, ch. 74-113; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 6, 7, ch. 83-248; s. 14, ch. 84-551; s. 31, ch. 85-54; ss. 1, 2, ch. 93-115.

**402.317 Prolonged child care.**—Notwithstanding the time restriction specified in s. 402.302(1), child care may be provided for 24 hours or longer for a child whose parent or legal guardian works a shift of 24 hours or more. The requirement that a parent or legal guardian work a shift of 24 hours or more must be certified in writing by the employer, and the written certification shall be maintained in the facility by the child care provider and made available to the licensing agency. The time that a child remains in child care, however, may not exceed 72 consecutive hours in any 7-day period. During a declared state of emergency, the child care licensing agency may temporarily waive the time limitations provided in this section.

**History.**—s. 8, ch. 2006-91.

**402.318 Advertisement.**—A person, as defined in s. 1.01(3), may not advertise a child care facility, family day care home, or large family child care home without including within such advertisement the state or local agency license number or registration number of such facility or home. Violation of this section is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

**History.**—ss. 15, 19, ch. 84-551; s. 74, ch. 91-224; ss. 1, 2, ch. 93-115; s. 3, ch. 2011-75.

**402.319 Penalties.**—

(1) It is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, for any person knowingly to:

(a) Fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose in any application for voluntary or paid employment or licensure regulated under ss. 402.301-402.318 all information required under those sections or a material fact used in making a determination as to such person's qualifications to be child care personnel, as defined in s. 402.302, in a child care facility, family day care home, or other child care program.

(b) Operate or attempt to operate a child care facility without having procured a license as required by this act.

(c) Operate or attempt to operate a family day care home without a license or without registering with the department, whichever is applicable.

(d) Operate or attempt to operate a child care facility or family day care home under a license that is suspended, revoked, or terminated.

(e) Misrepresent, by act or omission, a child care facility or family day care home to be duly

licensed pursuant to this act without being so licensed.

(f) Make any other misrepresentation, by act or omission, regarding the licensure or operation of a child care facility or family day care home to a parent or guardian who has a child placed in the facility or is inquiring as to placing a child in the facility, or to a representative of the licensing authority, or to a representative of a law enforcement agency, including, but not limited to, any misrepresentation as to:

1. The number of children at the child care facility or the family day care home;
2. The part of the child care facility or family day care home designated for child care;
3. The qualifications or credentials of child care personnel;
4. Whether a family day care home or child care facility complies with the screening requirements of s. 402.305; or
5. Whether child care personnel have the training as required by s. 402.305.

(2) If any child care personnel makes any misrepresentation in violation of this section to a parent or guardian who has placed a child in the child care facility or family day care home, and the parent or guardian relied upon the misrepresentation, and the child suffers great bodily harm, permanent disfigurement, permanent disability, or death as a result of an intentional act or negligence by the child care personnel, then the child care personnel commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Each child care facility, family day care home, and large family child care home shall annually submit an affidavit of compliance with s. 39.201.

**History.**—ss. 16, 19, ch. 84-551; s. 32, ch. 85-54; s. 37, ch. 90-347; ss. 1, 2, ch. 93-115; s. 60, ch. 95-228; s. 2, ch. 99-207; s. 14, ch. 2016-238.