
SENATE COMMITTEE ON HUMAN SERVICES

Senator Alvarado-Gil, Chair

2023 - 2024 Regular

Bill No: SB 1401
Author: Blakespear
Version: February 16, 2024
Urgency: No
Consultant: Diana Dominguez

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Fiscal: Yes

Subject: Family childcare home: United States Armed Forces

SUMMARY

This bill exempts a family childcare home administered by a person certified as a family childcare provider by a branch of the United States Armed Forces and that exclusively provides care for children of eligible federal personnel and surviving spouses as exempt from child daycare facility licensure and regulation by the California Department of Social Services (CDSS).

ABSTRACT

Existing Law:

- 1) Establishes the Child Day Care Facilities Act (CDCFA) with CDSS as the licensing entity for child care centers and family child care homes, to ensure that working families have access to healthy and safe child care providers and that child care programs contribute positively to a child's emotional, cognitive, and educational development, and are able to respond to, and provide for, the unique characteristics and needs of children. Further, creates a separate licensing category for child daycare centers and family daycare homes within CDSS's existing licensing structure through the CDCFA. (*HSC 1596.70 et seq.*)
- 2) Exempts the following list from child daycare facility licensure and regulation:
 - a. Any health facility.
 - b. Any clinic.
 - c. Any community care facility.
 - d. Any family childcare home providing care for the children of only one family in addition to the operator's own children.

- e. Any cooperative arrangement between parents for the care of their children when no payment is involved and the arrangement meets specified conditions.
 - f. Any arrangement for the receiving and care of children by a relative.
 - g. Any public recreation program operated by the state, city, county, special district, school district, community college district, chartered city, or chartered city and county, as specified.
 - h. Extended daycare programs operated by public or private schools.
 - i. Any school parenting program or adult education childcare program, as specified.
 - j. Any child daycare program that operates only one day per week for not more than four hours on that day.
 - k. Any child daycare program that offers temporary childcare services to parents who are on the same premises as the site and is not operated on the site of a ski facility, shopping mall, department store, or any other similar site.
 - l. Any program that provides activities for children of an instructional nature in a classroom-like setting, as specified.
 - m. A program facility administered by the Department of Corrections and Rehabilitation that houses both women and their children and is specifically designated for the purpose of providing substance abuse treatment and maintaining and strengthening the family unit, as specified.
 - n. Any crisis nursery.
 - o. A California State Preschool Program operated by a local educational agency under contract with the State Department of Education and that operates in a school building, as specified. (*HSC 1596.792*)
- 3) Defines “armed forces” as meaning the Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard. (*10 U.S.C. 101(a)(4)*)

This Bill:

- 1) Corrects a citation to the proper Health & Safety Code that defines “clinic.”
- 2) Exempts from child daycare licensing and regulation a family childcare home administered by a person certified as a family childcare provider by a branch of the United States Armed Forces and that exclusively provides care for children of eligible federal personnel and surviving spouses.

- 3) Defines “United States Armed Forces” as having the same meaning as Section 101(a)(4) of Title 10 of the United State Code, or its successor.
- 4) Defines “Eligible” as having the same meaning as Section 4(d)(1-2) of Instruction Number 6060.02 of the United States Department of Defense, dated August 5, 2014, and as updated on September 1, 2020, or its successor.

FISCAL IMPACT

This bill has not yet been analyzed by a fiscal committee.

BACKGROUND AND DISCUSSION

Purpose of the Bill:

According to the author, “Like other child care options, those for military families have long wait times. In 2022, more than 4,000 children were on the wait list for Navy child care centers in San Diego alone. Furthermore, the Department of Defense (DOD) estimates there is nearly a 50 percent deficit in the number of Family Child Care (FCC) providers needed. That forces many military families to turn to more expensive and less convenient civilian child care options. By creating a state licensure exemption for FCC providers who are already certified by the DOD, SB 1401 would help providers — 87% of whom were military spouses in 2021 — by reducing the administrative burden associated with completing time-consuming, expensive and sometimes redundant state child care licensure requirements. A waiver means these spouses can start earning income much faster after a move, preventing financial instability with their families and helping to reduce the shortage of child care in their new location.”

The author continues, “This is a simple, sensible step we can take to better support military families. Having access to reliable child care is essential for all working families, including the fine men and women serving in the U.S. Armed Forces to protect us. SB 1401 reduces red tape so home child care providers can open more quickly on and near military bases.”

Family Child Care Home Licensure

Family child care (FCC), formerly called family day care, is regularly provided care, protection, and supervision of children in the licensee’s own home, known as a Family Child Care Home (FCCHs). Families who choose FCC for their child might do so because the FCCH is close to where they live, the provider speaks their home language, they prefer a home-like setting over a child care center, or their child is more comfortable with small class sizes.

The California Child Day Care Facilities Act of 1984 established the Child Care Licensing Program at CDSS. The mission of the Child Care Licensing Program is to ensure the health and safety of children in care and to improve the quality of their care through regulation and consultation. This mission is accomplished through prevention, compliance, and enforcement.

FCCH licensure requirements are outlined in the California Code of Regulations, Title 22, Division 12. To become licensed, a FCCH licensee applicant is required to have training in preventative health practices, as well as obtain a California criminal record clearance or exemption, fire safety clearance, and specified immunizations. After becoming licensed, a small FCCH licensee may provide care for up to eight children, while a large FCCH licensee may provide care for up to 14 children, as specified. Licensees must also adhere to regulations regarding personnel requirements and records, reporting requirements, alterations to the FCCH or grounds, staffing ratios, and annual licensing fees, among others. The Child Care Licensing Program conducts inspections of all licensed child care facilities every three years.

According to CDSS, during Fiscal Year 2022-23, the average processing time for a FCCH license application was 93 days, with the quickest processing times from 45 to 60 days. The most common reasons for delays for a FCCH application to take longer than others to process were the need for a criminal record exemption, fire clearances (for large FCCH facilities), required immunizations, and required training (CPR/First Aid/Preventative Health). There are also many factors that impact the timelines for the Regional Offices, including an influx of large numbers of applications.

Child Care Licensure Exemptions

Under current law, a person providing care for the children of only one family in addition to their own children is not subject to licensure. These providers are known as Family, Friend, and Neighbor providers, or sometimes referred to as unlicensed providers. In addition, any cooperative arrangement between parents for child care with no exchange of payment, any arrangement for child care by a relative, any child care program that operates one day per week for less than four hours, and any temporary or drop-in child care program when parents or guardians are on the same premises, are not subject to licensure.

According to the author and sponsor, five states currently provide an exemption from state child care licensing requirements. Enacted statutes in Alaska, Connecticut, Montana, and Oklahoma are nearly identical to this bill. Florida law¹ requires a local licensing agency or the state department to instead issue a provisional license or registration if a child care facility operator or owner provides evidence that they have completed, within the previous six months, training pursuant to the U.S. Department of Defense Instruction 6060.02 and background screening by the U.S. Department of Defense, as specified, and received a favorable suitability and fitness determination. Further, the Florida statute provides that a provisional license or registration may not be issued for a period that exceeds six months; however, a provisional license or registration may be renewed for one additional six-month period in special circumstances.

This bill would add a FCCH administered by a person certified as a family childcare provider by a branch of the United States Armed Forces and that exclusively provides care for children of eligible federal personnel and surviving spouses as exempt from child care licensure.

¹ http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0402/Sections/0402.309.html

Related/Prior Legislation

SB 114 (Committee on Budget and Fiscal Review, Chapter 48, Statutes of 2023), a budget trailer bill, exempted extended daycare programs operated by public or private schools, including, but not limited to, expanded learning opportunity programs from Title 22 licensing requirements.

AB 99 (Committee on Budget, Chapter 15, Statutes of 2017), a budget trailer bill, exempted State Preschool programs operated by local educational agencies from Title 22 licensing requirements upon adoption of emergency regulations or by June 30, 2019, whichever comes first.

COMMENTS

This bill seeks to exempt a FCCH provider certified with a branch of the U.S. Armed Forces from child care licensure through CDSS, effectively granting the federally-certified provider reciprocity in California. There are no exemptions to child care licensure in state law that are granted on the basis of licensure or certification by an external government.

It is unclear who would have jurisdiction and responsibility to investigate should a federally-certified provider operate a FCCH off of a military base and on California land. According to the U.S. Department of Defense's website, MilitaryChildCare.com, if a provider is located off base, the state may require additional licensing, registration, or inspections in addition to those required by the Department.

The author may wish to include a reference to federal certification standards for FCCHs.

POSITIONS**Support:**

U.S. Department of Defense

Oppose:

None

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