

HOUSE BILL 329

O4

6lr1885
CF SB 312

By: **Delegate Dumais**

Introduced and read first time: January 27, 2016

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 16, 2016

CHAPTER _____

1 AN ACT concerning

2 **Children – Family Child Care Homes and Child Care Centers – Advertising and**
3 **Penalties**

4 FOR the purpose of requiring advertisements for certain child care services to include
5 certain information; authorizing certain employees of the State Department of
6 Education ~~or a law enforcement officer to visit and serve a certain civil citation to~~ or
7 the State Fire Marshal, a deputy State fire marshal, a special assistant State fire
8 marshal, or a local fire marshal to visit, and authorizing the employees of the
9 Department to serve a civil citation to, certain child care homes and child care
10 centers if the child care home or child care center is advertised and is not registered
11 or licensed with the Department, the Department sends a warning letter to the child
12 care provider or child care center, and the child care provider or child care center
13 does not respond within a certain period of time or responds in a certain manner;
14 ~~authorizing certain law enforcement officers to serve a certain civil citation to certain~~
15 ~~child care homes and child care centers in certain circumstances; authorizing the~~
16 ~~State Fire Marshal, a deputy State fire marshal, or a special assistant State fire~~
17 ~~marshal to inspect certain child care homes or child care centers under certain~~
18 ~~circumstances; altering the penalties for providing certain child care services~~
19 ~~without being registered or licensed;~~ authorizing the State Fire Marshal, a deputy
20 State fire marshal, a special assistant State fire marshal, or a local fire marshal to
21 take certain actions authorized by law; authorizing a certain penalty for advertising
22 certain child care services without being licensed; stating the intent of the General
23 Assembly that the Department expand its efforts to educate certain parents and
24 certain child care providers about certain issues relating to child care services;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 requiring the Department to make a certain report on or before a certain date;
2 defining a certain term; and generally relating to child care services in the State.

3 BY renumbering

4 Article – Family Law

5 Section 5–501(c) through (r), respectively

6 to be Section 5–501(d) through (s), respectively

7 Annotated Code of Maryland

8 (2012 Replacement Volume and 2015 Supplement)

9 BY repealing and reenacting, without amendments,

10 Article – Family Law

11 Section 5–501(a), 5–550(a) and (b), 5–551(a), 5–570(a), (c), (d), and (f), and 5–574(a)

12 Annotated Code of Maryland

13 (2012 Replacement Volume and 2015 Supplement)

14 BY adding to

15 Article – Family Law

16 Section 5–501(c) and 5–574(e) through ~~(g)~~ (f)

17 Annotated Code of Maryland

18 (2012 Replacement Volume and 2015 Supplement)

19 BY repealing

20 Article – Family Law

21 Section 5–551(c)(10)

22 Annotated Code of Maryland

23 (2012 Replacement Volume and 2015 Supplement)

24 BY repealing and reenacting, with amendments,

25 Article – Family Law

26 Section 5–551(c)(11) and (12), 5–552, 5–557, 5–557.1, 5–582, 5–583, and 5–583.1

27 Annotated Code of Maryland

28 (2012 Replacement Volume and 2015 Supplement)

29 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
30 That Section(s) 5–501(c) through (r), respectively, of Article – Family Law of the Annotated
31 Code of Maryland be renumbered to be Section(s) 5–501(d) through (s), respectively.

32 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
33 as follows:

34 **Article – Family Law**

35 5–501.

36 (a) In this subtitle the following words have the meanings indicated.

1 **(C) “ADVERTISEMENT” MEANS A COMMUNICATION THAT IS INTENDED TO**
2 **INFLUENCE A PERSON TO ENTER INTO AN OBLIGATION OR SIGN A CONTRACT FOR**
3 **SERVICES.**

4 5–550.

5 (a) In Part V of this subtitle the following words have the meanings indicated.

6 (b) “Department” means the State Department of Education.

7 5–551.

8 (a) The Department shall adopt regulations that relate to the registration of
9 family child care homes and large family child care homes.

10 (c) At a minimum, the regulations of the Department shall provide for:

11 [(10) a requirement that a person who advertises a family child care home,
12 large family child care home, or family child care service shall:

13 (i) indicate in the advertisement that the family child care home or
14 large family child care home is registered; and

15 (ii) display in the advertisement the registration number issued to
16 the family child care home, large family child care home, or family child care service by the
17 Department;]

18 [(11)] **(10)** a requirement that each registered child care provider shall hold
19 a current certificate indicating successful completion of approved:

20 (i) basic first aid training through the American Red Cross or
21 through a program with equivalent standards; and

22 (ii) cardiopulmonary resuscitation (CPR) training through the
23 American Heart Association or through a program with equivalent standards appropriate
24 for the ages of children for whom care is provided in the family child care home or large
25 family child care home; and

26 [(12)] **(11)** (i) a requirement that a family child care home or large
27 family child care home that receives notice of a contaminated drinking water supply from
28 the family child care home’s or large family child care home’s supplier of water, in
29 accordance with § 9–410 of the Environment Article or otherwise, send notice of the
30 drinking water contamination to the parent or legal guardian of each child attending the
31 family child care home or large family child care home; and

(ii) a requirement that the notice sent by the family child care home or large family child care home shall:

1. be sent within 10 business days after receipt of the notice of contamination from the family child care home's or large family child care home's water supplier;

2. be in writing;

3. identify the contaminants and their levels in the family child care home's or large family child care home's water supply; and

4. describe the family child care home's or large family child care home's plan for dealing with the water contamination problem until the family child care home's or large family child care home's water is determined by the appropriate authority to be safe for consumption.

5-552.

(a) Except as otherwise provided in this section, a family child care home or large family child care home may not operate unless it is registered.

(b) A family child care home is not required to be registered if the child care provider:

(1) is related to each child by blood or marriage;

(2) is a friend of each child's parents or legal guardian and the care is provided on an occasional basis; or

(3) has received the care of the child from a child placement agency licensed by the Department of Human Resources or by a local department of social services.

(c) **(1)** A person may not advertise a family child care home, large family child care home, or family child care service unless the family child care home or large family child care home is registered under the provisions of this Part V of this subtitle.

(2) AN ADVERTISEMENT FOR A FAMILY CHILD CARE HOME, LARGE FAMILY CHILD CARE HOME, OR FAMILY CHILD CARE SERVICE SHALL STATE:

(I) THAT THE FAMILY CHILD CARE HOME OR LARGE FAMILY CHILD CARE HOME IS REGISTERED WITH THE DEPARTMENT; AND

(II) THE REGISTRATION NUMBER ISSUED TO THE FAMILY CHILD CARE HOME OR LARGE FAMILY CHILD CARE HOME BY THE DEPARTMENT; ~~AND~~

~~(H) THAT IT IS ILLEGAL TO PROVIDE OR ADVERTISE FOR FAMILY CHILD CARE UNLESS REGISTERED UNDER STATE LAW.~~

~~(3) IF A CHILD CARE PROVIDER ADVERTISES A FAMILY CHILD CARE HOME OR LARGE FAMILY CHILD CARE HOME THAT IS NOT REGISTERED UNDER THE PROVISIONS OF THIS PART V OF THIS SUBTITLE, AN AN EMPLOYEE OF THE DEPARTMENT CHARGED WITH THE INVESTIGATION AND ENFORCEMENT OF CHILD CARE REGULATIONS OR A LAW ENFORCEMENT OFFICER, THE STATE FIRE MARSHAL, A DEPUTY STATE FIRE MARSHAL, A SPECIAL ASSISTANT STATE FIRE MARSHAL, OR A LOCAL FIRE MARSHAL MAY VISIT THE HOME AND OF A CHILD CARE PROVIDER, AND THE EMPLOYEE OF THE DEPARTMENT MAY SERVE A CIVIL CITATION WITHOUT ANY OTHER EVIDENCE OF UNREGISTERED FAMILY CHILD CARE IF:~~

~~(I) THE CHILD CARE PROVIDER ADVERTISES A FAMILY CHILD CARE HOME OR LARGE FAMILY CHILD CARE HOME THAT IS NOT REGISTERED UNDER THE PROVISIONS OF THIS PART V OF THIS SUBTITLE;~~

~~(II) THE DEPARTMENT SENDS A WARNING LETTER TO THE CHILD CARE PROVIDER; AND~~

~~(III) THE CHILD CARE PROVIDER:~~

~~1. DOES NOT RESPOND TO THE DEPARTMENT WITHIN 10 BUSINESS DAYS AFTER THE DEPARTMENT SENDS THE WARNING LETTER; OR~~

~~2. RESPONDS TO THE DEPARTMENT IN A MANNER THAT DOES NOT ADEQUATELY ADDRESS THE CHARGE IN THE WARNING LETTER.~~

~~(4) THE STATE FIRE MARSHAL, A DEPUTY STATE FIRE MARSHAL, A SPECIAL ASSISTANT STATE FIRE MARSHAL, OR A LOCAL FIRE MARSHAL WHO VISITS A CHILD CARE CENTER UNDER PARAGRAPH (3) OF THIS SUBSECTION MAY TAKE ANY ACTION AUTHORIZED UNDER § 6-316 OF THE PUBLIC SAFETY ARTICLE, THE STATE FIRE PREVENTION CODE, OR A LOCAL FIRE PREVENTION CODE.~~

(d) An employee of the Department charged with the investigation and enforcement of child care regulations ~~OR A LAW ENFORCEMENT OFFICER~~ may serve a civil citation to a person found in violation of this section.

~~(E) THE STATE FIRE MARSHAL, A DEPUTY STATE FIRE MARSHAL, OR A SPECIAL ASSISTANT STATE FIRE MARSHAL MAY INSPECT A FAMILY CHILD CARE HOME OR LARGE FAMILY CHILD CARE HOME IF:~~

~~(1) THE DEPARTMENT RECEIVES A COMPLAINT THAT THE CHILD CARE PROVIDER IN CHARGE OF THE FAMILY CHILD CARE HOME OR LARGE FAMILY CHILD CARE HOME IS IN VIOLATION OF THIS PART V OF THIS SUBTITLE;~~

~~(2) THE DEPARTMENT SENDS A WARNING LETTER TO THE CHILD CARE PROVIDER; AND~~

~~(3) THE CHILD CARE PROVIDER:~~

~~(i) DOES NOT RESPOND TO THE DEPARTMENT WITHIN 10 BUSINESS DAYS AFTER THE DEPARTMENT SENDS THE WARNING LETTER; OR~~

~~(ii) RESPONDS TO THE DEPARTMENT IN A MANNER THAT DOES NOT ADEQUATELY ADDRESS THE CHARGE IN THE WARNING LETTER.~~

5-557.

A person who violates ~~§ 5-552~~ § 5-552(A) of this subtitle is guilty of a misdemeanor and on conviction is subject to:

(1) a fine not exceeding ~~[\$1,500]~~ \$3,000 for the first violation; and

(2) a fine not exceeding ~~[\$2,500]~~ \$5,000 for a second or subsequent violation.

5-557.1.

(a) Except as provided in subsection (b) of this section and subject to the provisions of subsection (d) of this section, a person who violates any provision of this Part V of this subtitle or any rule or regulation adopted under this Part V of this subtitle is subject to a civil penalty imposed in a civil action not exceeding ~~[\$1,000]~~ \$2,500 for each violation.

(b) (1) A person who violates [~~§ 5-552~~] § 5-552(A) OR (C) of this subtitle and is served a civil citation under that section is subject to a civil penalty as follows:

(i) ~~[\$250]~~ \$500 for the first violation;

(ii) ~~[\$500]~~ \$1,000 for the second violation; and

(iii) ~~[\$1,000]~~ \$2,500 for the third and each subsequent violation.

~~(2) A PERSON WHO VIOLATES § 5-552(C) OF THIS SUBTITLE AND IS SERVED A CIVIL CITATION UNDER THAT SECTION IS SUBJECT TO A CIVIL PENALTY AS FOLLOWS:~~

1 ~~(I) \$250 FOR THE FIRST VIOLATION;~~

2 ~~(II) \$500 FOR THE SECOND VIOLATION; AND~~

3 ~~(III) \$1,000 FOR THE THIRD AND EACH SUBSEQUENT VIOLATION.~~

4 ~~[(2)] (3)~~ Any money collected under this subsection shall be deposited into
5 the General Fund of the State.

6 ~~[(3)] (4)~~ Any person served with a citation under this subsection may
7 appeal the citation to the Office of Administrative Hearings in accordance with § 10–205 of
8 the State Government Article.

9 (c) Each day a violation occurs is a separate violation under this section.

10 (d) The total amount of civil penalties imposed in an action under this section
11 may not exceed ~~[\$5,000]~~ \$10,000.

12 5–570.

13 (a) In this Part VII of this subtitle the following words have the meanings
14 indicated.

15 (c) (1) “Child care center” means an agency, institution, or establishment that,
16 for part or all of a day, or on a 24–hour basis on a regular schedule, and at least twice a
17 week, offers or provides child care to children who do not have the same parentage except
18 as otherwise provided for in law or regulation.

19 (2) “Child care center” shall include a nonpublic nursery school in which
20 an instructional program is offered or provided for children who are under the age of 5
21 years.

22 (3) “Child care center” does not include:

23 (i) a nonpublic kindergarten in which an instructional program is
24 offered or provided for children who are at least 5 years old;

25 (ii) a nonpublic elementary school in which an instructional program
26 is offered or provided for children who are in grades 1 through 8;

27 (iii) a child care home, a child care institution, or other child care
28 facility that offers or provides a residential placement for a child and is established,
29 licensed, or registered under this subtitle, Title 9 of the Human Services Article, or Title 10
30 of the Health – General Article; or

1 (iv) a family child care home or large family child care home that is
2 required to be registered or is registered under this subtitle.

3 (d) "Department" means the State Department of Education.

4 (f) "License" means a license issued by the State Department of Education to
5 operate a child care center.

6 5-574.

7 (a) Except as otherwise provided in this Part VII of this subtitle, a person shall
8 be licensed by the Department before the person may operate a child care center in this
9 State.

10 (E) (1) A PERSON MAY NOT ADVERTISE A CHILD CARE CENTER UNLESS
11 THE PERSON IS LICENSED TO OPERATE A CHILD CARE CENTER UNDER THE
12 PROVISIONS OF THIS PART VII OF THIS SUBTITLE.

13 (2) AN ADVERTISEMENT FOR A CHILD CARE CENTER SHALL STATE:

14 (I) THAT THE CHILD CARE CENTER IS LICENSED BY THE
15 DEPARTMENT; AND

16 (II) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS
17 SUBSECTION, THE LICENSE NUMBER ISSUED TO THE CHILD CARE CENTER BY THE
18 DEPARTMENT; ~~AND~~

19 ~~(III) THAT IT IS ILLEGAL TO PROVIDE OR ADVERTISE CHILD CARE~~
20 ~~SERVICES UNLESS LICENSED UNDER STATE LAW.~~

21 (3) AN ADVERTISEMENT FOR MULTIPLE CHILD CARE CENTERS
22 OPERATED BY A SINGLE LICENSEE SHALL STATE THE LICENSE NUMBER OF AT LEAST
23 ONE OF THE CHILD CARE CENTERS THAT THE LICENSEE OPERATES.

24 ~~(3) (4) IF A PERSON ADVERTISES A CHILD CARE CENTER THAT IS~~
25 ~~NOT LICENSED UNDER THE PROVISIONS OF THIS PART VII OF THIS SUBTITLE, AN~~
26 AN EMPLOYEE OF THE DEPARTMENT CHARGED WITH THE INVESTIGATION AND
27 ENFORCEMENT OF CHILD CARE REGULATIONS OR A LAW ENFORCEMENT OFFICER,
28 THE STATE FIRE MARSHAL, A DEPUTY STATE FIRE MARSHAL, A SPECIAL ASSISTANT
29 STATE FIRE MARSHAL, OR A LOCAL FIRE MARSHAL MAY VISIT THE CHILD CARE
30 CENTER ~~AND~~, AND THE EMPLOYEE OF THE DEPARTMENT MAY ISSUE A CIVIL
31 CITATION WITHOUT ANY OTHER EVIDENCE OF UNLICENSED CHILD CARE IF:

32 (I) A PERSON ADVERTISES A CHILD CARE CENTER THAT IS NOT
33 LICENSED UNDER THE PROVISIONS OF THIS PART VII OF THIS SUBTITLE;

1 (II) THE DEPARTMENT SENDS A WARNING LETTER TO THE
 2 PERSON; AND

3 (III) THE PERSON:

4 1. DOES NOT RESPOND TO THE DEPARTMENT WITHIN 10
 5 BUSINESS DAYS AFTER THE DEPARTMENT SENDS THE WARNING LETTER; OR

6 2. RESPONDS TO THE DEPARTMENT IN A MANNER THAT
 7 DOES NOT ADEQUATELY ADDRESS THE CHARGE IN THE WARNING LETTER.

8 (5) THE STATE FIRE MARSHAL, A DEPUTY STATE FIRE MARSHAL, A
 9 SPECIAL ASSISTANT STATE FIRE MARSHAL, OR A LOCAL FIRE MARSHAL WHO VISITS
 10 A CHILD CARE CENTER UNDER PARAGRAPH (4) OF THIS SUBSECTION MAY TAKE ANY
 11 ACTION AUTHORIZED UNDER § 6-316 OF THE PUBLIC SAFETY ARTICLE, THE STATE
 12 FIRE PREVENTION CODE, OR A LOCAL FIRE PREVENTION CODE.

13 ~~(F) THE STATE FIRE MARSHAL, A DEPUTY STATE FIRE MARSHAL, OR A~~
 14 ~~SPECIAL ASSISTANT STATE FIRE MARSHAL MAY INSPECT A CHILD CARE CENTER IF:~~

15 ~~(1) THE DEPARTMENT RECEIVES A COMPLAINT THAT THE PERSON IN~~
 16 ~~CHARGE OF THE CHILD CARE CENTER IS IN VIOLATION OF THIS PART VII OF THIS~~
 17 ~~SUBTITLE;~~

18 ~~(2) THE DEPARTMENT SENDS A WARNING LETTER TO THE PERSON;~~
 19 ~~AND~~

20 ~~(3) THE PERSON:~~

21 ~~(i) DOES NOT RESPOND TO THE DEPARTMENT WITHIN 10~~
 22 ~~BUSINESS DAYS AFTER THE DEPARTMENT SENDS THE WARNING LETTER; OR~~

23 ~~(ii) RESPONDS TO THE DEPARTMENT IN A MANNER THAT DOES~~
 24 ~~NOT ADEQUATELY ADDRESS THE CHARGE IN THE WARNING LETTER.~~

25 ~~(G) (F) AN EMPLOYEE OF THE DEPARTMENT CHARGED WITH THE~~
 26 ~~INVESTIGATION AND ENFORCEMENT OF CHILD CARE REGULATIONS OR A LAW~~
 27 ~~ENFORCEMENT OFFICER MAY SERVE A CIVIL CITATION TO A PERSON FOUND IN~~
 28 ~~VIOLATION OF THIS SECTION.~~

29 5-582.

30 (A) Except as otherwise provided in this subtitle, a person may not operate a child
 31 care center in this State unless licensed by the Department.

1 (B) AN EMPLOYEE OF THE DEPARTMENT CHARGED WITH THE
 2 INVESTIGATION AND ENFORCEMENT OF CHILD CARE REGULATIONS ~~OR A LAW~~
 3 ~~ENFORCEMENT OFFICER~~ MAY SERVE A CIVIL CITATION TO A PERSON FOUND IN
 4 VIOLATION OF THIS SECTION.

5 5-583.

6 A person who violates § 5-574(a) ~~OR (E)~~ or ~~§ 5-582~~ § 5-582(A) of this subtitle is
 7 guilty of a misdemeanor and on conviction is subject to:

8 (1) a fine not exceeding ~~[\$1,500]~~ \$3,000 for the first violation; and

9 (2) a fine not exceeding ~~[\$2,500]~~ \$5,000 for a second or subsequent
 10 violation.

11 5-583.1.

12 (a) [Subject] **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION**
 13 **AND SUBJECT** to the provisions of subsection [(c)] **(D)** of this section, a person who violates
 14 any provision of this Part VII of this subtitle or any rule or regulation adopted under this
 15 Part VII of this subtitle is subject to a civil penalty imposed in a civil action not exceeding
 16 ~~[\$1,000]~~ \$2,500 for each violation.

17 ~~(B) (1) A PERSON WHO VIOLATES § 5-574(A) OR § 5-582 OF THIS~~
 18 ~~SUBTITLE AND IS SERVED A CIVIL CITATION UNDER EITHER SECTION IS SUBJECT TO~~
 19 ~~A CIVIL PENALTY AS FOLLOWS:~~

20 ~~(I) \$500 FOR THE FIRST VIOLATION;~~

21 ~~(II) \$1,000 FOR THE SECOND VIOLATION; AND~~

22 ~~(III) \$2,500 FOR THE THIRD AND EACH SUBSEQUENT VIOLATION.~~

23 ~~(2)~~ **A PERSON WHO VIOLATES ~~§ 5-574(E)~~ § 5-574(A) OR (E) OR §**
 24 **5-582 OF THIS SUBTITLE AND IS SERVED A CIVIL CITATION UNDER THAT SECTION IS**
 25 **SUBJECT TO A CIVIL PENALTY AS FOLLOWS:**

26 **(I) \$250 FOR THE FIRST VIOLATION;**

27 **(II) \$500 FOR THE SECOND VIOLATION; AND**

28 **(III) \$1,000 FOR THE THIRD AND EACH SUBSEQUENT VIOLATION.**

29 **[(b)] (C)** Each day a violation occurs is a separate violation under this section.

1 [(c)] (D) The total amount of civil penalties imposed in an action under this
2 section may not exceed ~~[\$5,000]~~ **\$10,000**.

3 SECTION 3. AND BE IT FURTHER ENACTED, That:

4 (a) It is the intent of the General Assembly that the State Department of
5 Education expand its efforts to educate:

6 (1) parents about the potential dangers of unregistered or unlicensed child
7 care and the advantages of care provided by registered family child care homes and licensed
8 child care centers; and

9 (2) unregulated, unlicensed, or prospective child care providers about the
10 advantages of becoming registered family child care homes or licensed child care centers
11 and the resources available to assist them in becoming registered or licensed child care
12 providers.

13 (b) On or before December 1, 2017, the Department shall report to the Governor
14 and, in accordance with § 2-1246 of the State Government Article, the General Assembly
15 on the status of the Department’s expanded child care education efforts for providers and
16 the general public.

17 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2016.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.