

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

A BILL ENTITLED

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
7 certain child care homes and child care centers if the child care home or child care
8 center is advertised and is not registered or licensed with the Department;
9 authorizing certain law enforcement officers to serve a certain civil citation to certain
10 child care homes and child care centers in certain circumstances; authorizing the
11 State Fire Marshal, a deputy State fire marshal, or a special assistant State fire
12 marshal to inspect certain child care homes or child care centers under certain
13 circumstances; altering the penalties for providing certain child care services
14 without being registered or licensed; stating the intent of the General Assembly that
15 the Department expand its efforts to educate certain parents and certain child care
16 providers about certain issues relating to child care services; requiring the
17 Department to make a certain report on or before a certain date; defining a certain
18 term; and generally relating to child care services in the State.

19 BY renumbering

20 Article – Family Law

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

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

23 Annotated Code of Maryland

24 (2012 Replacement Volume and 2015 Supplement)

25 BY repealing and reenacting, without amendments,

26 Article – Family Law

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

28 Annotated Code of Maryland

29 (2012 Replacement Volume and 2015 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article – Family Law
3 Section 5–501(c) and 5–574(e) through (g)
4 Annotated Code of Maryland
5 (2012 Replacement Volume and 2015 Supplement)

6 BY repealing
7 Article – Family Law
8 Section 5–551(c)(10)
9 Annotated Code of Maryland
10 (2012 Replacement Volume and 2015 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article – Family Law
13 Section 5–551(c)(11) and (12), 5–552, 5–557, 5–557.1, 5–582, 5–583, and 5–583.1
14 Annotated Code of Maryland
15 (2012 Replacement Volume and 2015 Supplement)

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

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

21 **Article – Family Law**

22 5–501.

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

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

27 5–550.

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

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

30 5–551.

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

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

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

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

6 (ii) display in the advertisement the registration number issued to
7 the family child care home, large family child care home, or family child care service by the
8 Department;]

9 [(11)] (10) a requirement that each registered child care provider shall hold
10 a current certificate indicating successful completion of approved:

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

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

17 [(12)] (11) (i) a requirement that a family child care home or large
18 family child care home that receives notice of a contaminated drinking water supply from
19 the family child care home's or large family child care home's supplier of water, in
20 accordance with § 9-410 of the Environment Article or otherwise, send notice of the
21 drinking water contamination to the parent or legal guardian of each child attending the
22 family child care home or large family child care home; and

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

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

28 2. be in writing;

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

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

1 5-552.

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

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

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

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

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

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

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

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

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

20 (III) **THAT IT IS ILLEGAL TO PROVIDE OR ADVERTISE FOR FAMILY
21 CHILD CARE UNLESS REGISTERED UNDER STATE LAW.**

22 (3) **IF A CHILD CARE PROVIDER ADVERTISES A FAMILY CHILD CARE
23 HOME OR LARGE FAMILY CHILD CARE HOME THAT IS NOT REGISTERED UNDER THE
24 PROVISIONS OF THIS PART V OF THIS SUBTITLE, AN EMPLOYEE OF THE
25 DEPARTMENT CHARGED WITH THE INVESTIGATION AND ENFORCEMENT OF CHILD
26 CARE REGULATIONS OR A LAW ENFORCEMENT OFFICER MAY VISIT THE HOME AND
27 SERVE A CIVIL CITATION WITHOUT ANY OTHER EVIDENCE OF UNREGISTERED
28 FAMILY CHILD CARE.**

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

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

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

7 **(2) THE DEPARTMENT SENDS A WARNING LETTER TO THE CHILD**
8 **CARE PROVIDER; AND**

9 **(3) THE CHILD CARE PROVIDER:**

10 **(I) DOES NOT RESPOND TO THE DEPARTMENT WITHIN 10**
11 **BUSINESS DAYS AFTER THE DEPARTMENT SENDS THE WARNING LETTER; OR**

12 **(II) RESPONDS TO THE DEPARTMENT IN A MANNER THAT DOES**
13 **NOT ADEQUATELY ADDRESS THE CHARGE IN THE WARNING LETTER.**

14 5-557.

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

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

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

20 5-557.1.

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

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

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

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

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

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

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

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

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

7 **[(2)] (3)** Any money collected under this subsection shall be deposited into
8 the General Fund of the State.

9 **[(3)] (4)** Any person served with a citation under this subsection may
10 appeal the citation to the Office of Administrative Hearings in accordance with § 10-205 of
11 the State Government Article.

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

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

15 5-570.

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

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

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

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

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

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

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

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

7 (d) “Department” means the State Department of Education.

8 (f) “License” means a license issued by the State Department of Education to
9 operate a child care center.

10 5–574.

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

14 **(E) (1) A PERSON MAY NOT ADVERTISE A CHILD CARE CENTER UNLESS**
15 **THE PERSON IS LICENSED TO OPERATE A CHILD CARE CENTER UNDER THE**
16 **PROVISIONS OF THIS PART VII OF THIS SUBTITLE.**

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

18 **(I) THAT THE CHILD CARE CENTER IS LICENSED BY THE**
19 **DEPARTMENT;**

20 **(II) THE LICENSE NUMBER ISSUED TO THE CHILD CARE CENTER**
21 **BY THE DEPARTMENT; AND**

22 **(III) THAT IT IS ILLEGAL TO PROVIDE OR ADVERTISE CHILD CARE**
23 **SERVICES UNLESS LICENSED UNDER STATE LAW.**

24 **(3) IF A PERSON ADVERTISES A CHILD CARE CENTER THAT IS NOT**
25 **LICENSED UNDER THE PROVISIONS OF THIS PART VII OF THIS SUBTITLE, AN**
26 **EMPLOYEE OF THE DEPARTMENT CHARGED WITH THE INVESTIGATION AND**
27 **ENFORCEMENT OF CHILD CARE REGULATIONS OR A LAW ENFORCEMENT OFFICER**
28 **MAY VISIT THE CHILD CARE CENTER AND ISSUE A CIVIL CITATION WITHOUT ANY**
29 **OTHER EVIDENCE OF UNLICENSED CHILD CARE.**

30 **(F) THE STATE FIRE MARSHAL, A DEPUTY STATE FIRE MARSHAL, OR A**
31 **SPECIAL ASSISTANT STATE FIRE MARSHAL MAY INSPECT A CHILD CARE CENTER IF:**

1 **(1) THE DEPARTMENT RECEIVES A COMPLAINT THAT THE PERSON IN**
2 **CHARGE OF THE CHILD CARE CENTER IS IN VIOLATION OF THIS PART VII OF THIS**
3 **SUBTITLE;**

4 **(2) THE DEPARTMENT SENDS A WARNING LETTER TO THE PERSON;**
5 **AND**

6 **(3) THE PERSON:**

7 **(I) DOES NOT RESPOND TO THE DEPARTMENT WITHIN 10**
8 **BUSINESS DAYS AFTER THE DEPARTMENT SENDS THE WARNING LETTER; OR**

9 **(II) RESPONDS TO THE DEPARTMENT IN A MANNER THAT DOES**
10 **NOT ADEQUATELY ADDRESS THE CHARGE IN THE WARNING LETTER.**

11 **(G) AN EMPLOYEE OF THE DEPARTMENT CHARGED WITH THE**
12 **INVESTIGATION AND ENFORCEMENT OF CHILD CARE REGULATIONS OR A LAW**
13 **ENFORCEMENT OFFICER MAY SERVE A CIVIL CITATION TO A PERSON FOUND IN**
14 **VIOLATION OF THIS SECTION.**

15 5-582.

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

18 **(B) AN EMPLOYEE OF THE DEPARTMENT CHARGED WITH THE**
19 **INVESTIGATION AND ENFORCEMENT OF CHILD CARE REGULATIONS OR A LAW**
20 **ENFORCEMENT OFFICER MAY SERVE A CIVIL CITATION TO A PERSON FOUND IN**
21 **VIOLATION OF THIS SECTION.**

22 5-583.

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

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

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

28 5-583.1.

29 (a) **[Subject] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION**
30 **AND SUBJECT** to the provisions of subsection ~~[(c)]~~ **(D)** of this section, a person who violates

1 any provision of this Part VII of this subtitle or any rule or regulation adopted under this
2 Part VII of this subtitle is subject to a civil penalty imposed in a civil action not exceeding
3 ~~[\$1,000]~~ **\$2,500** for each violation.

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

7 **(I) \$500 FOR THE FIRST VIOLATION;**

8 **(II) \$1,000 FOR THE SECOND VIOLATION; AND**

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

10 **(2) A PERSON WHO VIOLATES § 5-574(E) OF THIS SUBTITLE AND IS**
11 **SERVED A CIVIL CITATION UNDER THAT SECTION IS SUBJECT TO A CIVIL PENALTY**
12 **AS FOLLOWS:**

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

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

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

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

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

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

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

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

25 (2) unregulated, unlicensed, or prospective child care providers about the
26 advantages of becoming registered family child care homes or licensed child care centers
27 and the resources available to assist them in becoming registered or licensed child care
28 providers.

29 (b) On or before December 1, 2017, the Department shall report to the Governor
30 and, in accordance with § 2-1246 of the State Government Article, the General Assembly

1 on the status of the Department's expanded child care education efforts for providers and
2 the general public.

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