

SENATE BILL 312

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CF HB 329

By: **Senators King, Bates, Benson, Currie, Ferguson, Guzzone, Jennings, Kagan, Kelley, Madaleno, Middleton, Nathan-Pulliam, Pinsky, Pugh, Raskin, and Young**

Introduced and read first time: January 26, 2016

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 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
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, or a local fire marshal to inspect certain child care homes or child care
13 centers under certain circumstances; altering the penalties for providing certain
14 child care services without being registered or licensed; stating the intent of the
15 General Assembly that the Department expand its efforts to educate certain parents
16 and certain child care providers about certain issues relating to child care services;
17 requiring the Department to make a certain report on or before a certain date;
18 defining a certain 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

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 Annotated Code of Maryland
2 (2012 Replacement Volume and 2015 Supplement)

3 BY repealing and reenacting, without amendments,
4 Article – Family Law
5 Section 5–501(a), 5–550(a) and (b), 5–551(a), 5–570(a), (c), (d), and (f), and 5–574(a)
6 Annotated Code of Maryland
7 (2012 Replacement Volume and 2015 Supplement)

8 BY adding to
9 Article – Family Law
10 Section 5–501(c) and 5–574(e) through (g)
11 Annotated Code of Maryland
12 (2012 Replacement Volume and 2015 Supplement)

13 BY repealing
14 Article – Family Law
15 Section 5–551(c)(10)
16 Annotated Code of Maryland
17 (2012 Replacement Volume and 2015 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article – Family Law
20 Section 5–551(c)(11) and (12), 5–552, 5–557, 5–557.1, 5–582, 5–583, and 5–583.1
21 Annotated Code of Maryland
22 (2012 Replacement Volume and 2015 Supplement)

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

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

28 **Article – Family Law**

29 5–501.

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

31 (c) **“ADVERTISEMENT” MEANS A COMMUNICATION THAT IS INTENDED TO**
32 **INFLUENCE A PERSON TO ENTER INTO AN OBLIGATION OR SIGN A CONTRACT FOR**
33 **SERVICES.**

34 5–550.

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

1 (b) "Department" means the State Department of Education.

2 5-551.

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

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

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

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

10 (ii) display in the advertisement the registration number issued to
11 the family child care home, large family child care home, or family child care service by the
12 Department;]

13 [(11)] (10) a requirement that each registered child care provider shall hold
14 a current certificate indicating successful completion of approved:

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

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

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

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

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

32 2. be in writing;

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

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

7 5-552.

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

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

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

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

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

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

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

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

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

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

28 (3) IF A CHILD CARE PROVIDER ADVERTISES A FAMILY CHILD CARE
29 HOME OR LARGE FAMILY CHILD CARE HOME THAT IS NOT REGISTERED UNDER THE
30 PROVISIONS OF THIS PART V OF THIS SUBTITLE, AN EMPLOYEE OF THE
31 DEPARTMENT CHARGED WITH THE INVESTIGATION AND ENFORCEMENT OF CHILD
32 CARE REGULATIONS OR A LAW ENFORCEMENT OFFICER MAY VISIT THE HOME AND

1 SERVE A CIVIL CITATION WITHOUT ANY OTHER EVIDENCE OF UNREGISTERED
2 FAMILY CHILD CARE.

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

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

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

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

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

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

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

19 5-557.

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

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

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

25 5-557.1.

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

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

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

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

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

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

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

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

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

12 [~~(2)~~] **(3)** Any money collected under this subsection shall be deposited into
13 the General Fund of the State.

14 [~~(3)~~] **(4)** Any person served with a citation under this subsection may
15 appeal the citation to the Office of Administrative Hearings in accordance with § 10–205 of
16 the State Government Article.

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

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

20 5–570.

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

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

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

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

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

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

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

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

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

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

14 5–574.

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

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

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

22 **(I) THAT THE CHILD CARE CENTER IS LICENSED BY THE**
23 **DEPARTMENT; AND**

24 **(II) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS**
25 **SUBSECTION, THE LICENSE NUMBER ISSUED TO THE CHILD CARE CENTER BY THE**
26 **DEPARTMENT; AND**

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

29 **(3) IF AN ADVERTISEMENT IS FOR MULTIPLE CHILD CARE CENTERS**
30 **OPERATED BY A SINGLE LICENSEE, THE ADVERTISEMENT SHALL STATE THE**
31 **LICENSE NUMBER OF AT LEAST ONE OF THE CHILD CARE CENTERS THAT THE**
32 **LICENSEE OPERATES.**

1 ~~(3)~~ (4) IF A PERSON ADVERTISES A CHILD CARE CENTER THAT IS
2 NOT LICENSED UNDER THE PROVISIONS OF THIS PART VII OF THIS SUBTITLE, AN
3 EMPLOYEE OF THE DEPARTMENT CHARGED WITH THE INVESTIGATION AND
4 ENFORCEMENT OF CHILD CARE REGULATIONS OR A LAW ENFORCEMENT OFFICER
5 MAY VISIT THE CHILD CARE CENTER AND ISSUE A CIVIL CITATION WITHOUT ANY
6 OTHER EVIDENCE OF UNLICENSED CHILD CARE.

7 (F) THE STATE FIRE MARSHAL, A DEPUTY STATE FIRE MARSHAL, ~~OR~~ A
8 SPECIAL ASSISTANT STATE FIRE MARSHAL, OR A LOCAL FIRE MARSHAL MAY
9 INSPECT A CHILD CARE CENTER IF:

10 (1) THE DEPARTMENT RECEIVES A COMPLAINT THAT THE PERSON IN
11 CHARGE OF THE CHILD CARE CENTER IS IN VIOLATION OF THIS PART VII OF THIS
12 SUBTITLE;

13 (2) THE DEPARTMENT SENDS A WARNING LETTER TO THE PERSON;
14 AND

15 (3) THE PERSON:

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

18 (II) RESPONDS TO THE DEPARTMENT IN A MANNER THAT DOES
19 NOT ADEQUATELY ADDRESS THE CHARGE IN THE WARNING LETTER.

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

24 5-582.

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

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

31 5-583.

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

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

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

6 5-583.1.

7 (a) [Subject] **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION**
8 **AND SUBJECT** to the provisions of subsection [(c)] **(D)** of this section, a person who violates
9 any provision of this Part VII of this subtitle or any rule or regulation adopted under this
10 Part VII of this subtitle is subject to a civil penalty imposed in a civil action not exceeding
11 ~~[\$1,000]~~ **\$2,500** for each violation.

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (2) unregulated, unlicensed, or prospective child care providers
5 about the advantages of becoming registered family child care homes or licensed child care
6 centers and the resources available to assist them in becoming registered or licensed child
7 care providers.

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

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.