

# SENATE BILL 925

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CF HB 1163

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By: **Senator Conway**

Introduced and read first time: February 23, 2011

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Family Child Care – Large Family Child Care Homes**

3 FOR the purpose of defining a certain family child care home as a residence in which  
4 family child care is provided for a certain number of children; repealing a  
5 certain provision of law that authorizes child care centers of a certain size;  
6 making certain stylistic changes; defining certain terms; requiring the publisher  
7 of the Annotated Code to make certain changes to the Code; and generally  
8 relating to family child care homes.

9 BY repealing and reenacting, with amendments,

10 Article – Family Law

11 Section 4–403(b)(3), 5–501, 5–502(b)(3), 5–505(b), 5–550(c) and (d), 5–550.1,  
12 5–551, 5–552, 5–553, 5–554(a), 5–554.1(a), (c), and (e)(1), 5–555(a), (b)(1),  
13 and (c), 5–556(a) and (f), 5–556.1, 5–559.1, 5–559.2(b), 5–559.3(b)(2) and  
14 (d), 5–559.5(b), 5–560(e)(2), 5–561(b)(2) and (c)(5)(i), 5–564(b)(1)(ii)2.,  
15 5–570(c)(3)(iv), 5–573(b), 5–592(b)(5) and (6) and (f)(2), 5–594(c) and (e),  
16 5–594.3(d)(3), 5–1308(c)(3)(v), 6–103(c)(4), and 14–202(a)(3)

17 Annotated Code of Maryland

18 (2006 Replacement Volume and 2010 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article – Family Law**

22 4–403.

23 (b) In implementing the program, the Department of Human Resources  
24 shall:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (3) to the extent possible, coordinate for families with children the  
2 delivery of [day] **CHILD** care, health, educational, mental health, employment,  
3 housing, and crisis services provided by public and private agencies.

4 5–501.

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

6 (b) “Administration” means:

7 (1) the Social Services Administration of the Department; or

8 (2) any other unit within the Department to which the Secretary of  
9 Human Resources has delegated in writing specified responsibilities of the  
10 Administration under this subtitle.

11 (c) [Repealed.

12 (d) “Day] “**CHILD** care provider” means the adult who has primary  
13 responsibility for the operation of a family [day] **CHILD** care home **OR LARGE FAMILY**  
14 **CHILD CARE HOME**.

15 [(e)] (D) “Family [day] **CHILD** care” means the care given to a child under  
16 the age of 13 years or to any developmentally disabled person under the age of 21  
17 years, in place of parental care for less than 24 hours a day, in a residence other than  
18 the child’s residence, for which the [day] **CHILD** care provider is paid.

19 [(f)] (E) “Family [day] **CHILD** care home” means a residence in which  
20 family [day] **CHILD** care is provided **FOR UP TO 8 CHILDREN**.

21 [(g)] (F) “Foster care” means continuous 24–hour care and supportive  
22 services provided for a minor child placed by a child placement agency in an approved  
23 family home.

24 [(h)] (G) “Group care” means continuous 24–hour care and supportive  
25 services provided for a minor child placed in a licensed group facility.

26 [(i)] (H) “Kinship care” means continuous 24–hour care and supportive  
27 services provided for a minor child placed by a child placement agency in the home of a  
28 relative related by blood or marriage within the 5th degree of consanguinity or affinity  
29 under the civil law rule.

30 (I) “**LARGE FAMILY CHILD CARE HOME**” MEANS A RESIDENCE IN WHICH  
31 **FAMILY CHILD CARE IS PROVIDED FOR AT LEAST 9 BUT NOT MORE THAN 12**  
32 **CHILDREN**.



1 (o) "Residential treatment care" means continuous 24-hour care and  
2 supportive services for a minor child placed in a facility that provides formal programs  
3 of basic care, social work, and health care services.

4 (p) "State Board" means the State Citizens Review Board for Children.

5 (q) "Unregistered family [day] CHILD care home" means a residence in  
6 which family [day] CHILD care is provided and in which the [day] CHILD care  
7 provider:

8 (1) has not obtained a certificate of registration from the Department;

9 (2) is not related by blood or marriage to each child in the provider's  
10 care;

11 (3) is not a friend of each child's parents or legal guardian and is  
12 providing care on a regular basis; and

13 (4) has not received the care of the child from a child placement  
14 agency licensed by the Administration or by a local department.

15 (r) "Voluntary placement agreement" means a binding, written agreement  
16 voluntarily entered into between a local department and the parent or legal guardian  
17 of a minor child that specifies, at a minimum, the legal status of the child and the  
18 rights and obligations of the parent or legal guardian, the child, and the local  
19 department while the child is in placement.

20 5-502.

21 (b) It is the policy of this State:

22 (3) to encourage the development of [day] CHILD care services for  
23 minor children in a safe, healthy, and homelike environment.

24 5-505.

25 (b) This section applies only to foster homes, family [day] CHILD care homes,  
26 and child care centers in the State.

27 5-550.

28 (c) "Direct Grant Fund" means the Family [Day] CHILD Care Provider  
29 Direct Grant Fund.

30 (d) "Family [day] CHILD care provider" means an individual who cares for  
31 no more than eight children in a registered family day care home.

1 5-550.1.

2 (a) The Department shall implement a system of registration for family  
3 [day] **CHILD** care homes.

4 (b) The purpose of registration of family [day] **CHILD** care homes is to:

5 (1) protect the health, safety, and welfare of children while they are in  
6 family [day] **CHILD** care;

7 (2) identify family [day] **CHILD** care homes;

8 (3) provide basic technical assistance and child care information to  
9 [day] **CHILD** care providers; and

10 (4) minimize the regulatory rigidity often associated with licensing.

11 (c) The system of registration is intended to promote a high degree of  
12 flexibility in the regulation of family [day] **CHILD** care homes while assuring the  
13 health and safety of children who are cared for in family [day] **CHILD** care homes.

14 5-551.

15 (a) The Department shall adopt regulations that relate to the registration of  
16 family [day] **CHILD** care homes.

17 (b) So far as practicable, the regulations shall be uniform with the rules and  
18 regulations adopted by other State agencies as those rules and regulations relate to  
19 other types of [day] **CHILD** care.

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

21 (1) minimum standards of environmental health and safety, including  
22 provisions for:

23 (i) adequate and safe physical surroundings, including  
24 requirements for window coverings in accordance with § 5-505 of this subtitle;

25 (ii) the physical and mental health of [day] **CHILD** care  
26 providers; and

27 (iii) investigation of any criminal record of a [day] **CHILD** care  
28 provider;

1           (2) a thorough evaluation of each prospective family [day] CHILD care  
2 home and [day] CHILD care provider, to be completed before the Department accepts  
3 an initial registration;

4           (3) an initial family [day] CHILD care registration that expires 2 years  
5 after its effective date;

6           (4) a continuing family [day] CHILD care registration that:

7                 (i) upon application by the [day] CHILD care provider that  
8 meets the requirements set by the Department, is issued to the provider before the  
9 end of the initial registration period; and

10               (ii) once issued, remains in effect until surrendered, suspended,  
11 revoked, or replaced by a conditional registration;

12           (5) reporting of any changed circumstances that relate to the  
13 requirements, by the [day] CHILD care provider, at the time the change occurs;

14           (6) an orientation to be provided to prospective [day] CHILD care  
15 providers by the Department before initial registration;

16           (7) announced inspection by the Department of each registered family  
17 [day] CHILD care home prior to issuance of an initial or continuing registration to  
18 determine whether applicable requirements are being met;

19           (8) unannounced inspection by the Department of each registered  
20 family [day] CHILD care home at least once during each 12-month period that an  
21 initial or continuing registration is in effect to determine whether safe and appropriate  
22 child care is being provided;

23           (9) procedures to be followed by the Department in response to a  
24 complaint about a family [day] CHILD care home;

25           (10) a requirement that a person who advertises a family [day] CHILD  
26 care home or family [day] CHILD care service shall:

27                 (i) indicate in the advertisement that the family [day] CHILD  
28 care home is registered; and

29                 (ii) display in the advertisement the registration number issued  
30 to the family [day] CHILD care home or family day care service by the Department;

31           (11) a requirement that each registered [day] CHILD care provider  
32 shall hold a current certificate indicating successful completion of approved:

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

3 (ii) cardiopulmonary resuscitation (CPR) training through the  
4 American Heart Association or through a program with equivalent standards  
5 appropriate for the ages of children for whom care is provided in the family [day]  
6 **CHILD** care home; and

7 (12) (i) a requirement that a family [day] **CHILD** care home that  
8 receives notice of a contaminated drinking water supply from the family [day] **CHILD**  
9 care home's supplier of water, in accordance with § 9–410 of the Environment Article  
10 or otherwise, send notice of the drinking water contamination to the parent or legal  
11 guardian of each child attending the family [day] **CHILD** care home; and

12 (ii) a requirement that the notice sent by the family [day]  
13 **CHILD** care home shall:

14 1. be sent within 10 business days after receipt of the  
15 notice of contamination from the family [day] **CHILD** care home's water supplier;

16 2. be in writing;

17 3. identify the contaminants and their levels in the  
18 family [day] **CHILD** care home's water supply; and

19 4. describe the family [day] **CHILD** care home's plan for  
20 dealing with the water contamination problem until the family [day] **CHILD** care  
21 home's water is determined by the appropriate authority to be safe for consumption.

22 (d) The Department shall adopt regulations that:

23 (1) require a family [day] **CHILD** care provider to have a written  
24 emergency preparedness plan for emergency situations that require evacuation,  
25 sheltering in place, or other protection of children such as in the event of fire, natural  
26 disaster, or other threatening situation that may pose a health or safety hazard to the  
27 children in the family [day] **CHILD** care home;

28 (2) require the plan under item (1) of this subsection to include:

29 (i) a designated relocation site and evacuation route;

30 (ii) procedures for notifying parents or other adults responsible  
31 for the child of the relocation;

32 (iii) procedures to address the needs of individual children  
33 including children with special needs;

1 (iv) procedures for the reassignment of staff duties during an  
2 emergency, as appropriate; and

3 (v) procedures for communicating with local emergency  
4 management officials or other appropriate State or local authorities; and

5 (3) require a family [day] CHILD care provider to train staff and  
6 ensure that staff are familiar with the plan.

7 5-552.

8 (a) Except as otherwise provided in this section, a family [day] CHILD care  
9 home may not operate unless it is registered.

10 (b) A family [day] CHILD care home is not required to be registered if the  
11 [day] CHILD care 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  
16 licensed by the Administration or by a local department.

17 (c) A person may not advertise a family [day] CHILD care home or family  
18 [day] CHILD care service unless the family [day] CHILD care home is registered under  
19 the provisions of this Part V of this subtitle.

20 (d) An employee of the Department charged with the investigation and  
21 enforcement of child care regulations may serve a civil citation to a person found in  
22 violation of this section.

23 5-553.

24 (a) For purposes of this Part V of this subtitle, a [day] CHILD care provider's  
25 own children under the age of 2 years shall be counted as children served.

26 (b) (1) At any given time, a [day] CHILD care provider:

27 (I) IN A FAMILY CHILD CARE HOME, may not care for more  
28 than 8 children, of whom no more than 4 may be under the age of 2 years; AND

29 (II) IN A LARGE FAMILY CHILD CARE HOME, MAY NOT CARE  
30 FOR MORE THAN 12 CHILDREN.



1           (2)    An adult to child ratio of at least 1 adult to every 2 children under  
2 the age of 2 years shall be maintained at all times.

3           (c)    If the Department determines that the group size provisions of subsection  
4 (b) of this section are unsuitable for a particular family [day] **CHILD** care home, the  
5 Department may decrease the number of children permitted to be in care at that  
6 family [day] **CHILD** care home.

7   5-554.

8           (a)    A registration under this Part V of this subtitle may be revoked, a [day]  
9 **CHILD** care provider may appeal from the revocation, and the operation of an  
10 unregistered family [day] **CHILD** care home may be enjoined.

11   5-554.1.

12           (a)    The State Superintendent or other authorized official or employee of the  
13 Department may apply to a judge of the District Court or a circuit court for an  
14 administrative search warrant to enter any unregistered family [day] **CHILD** care  
15 home to conduct any inspection required or authorized by law to determine compliance  
16 with the provisions of this subtitle relating to family [day] **CHILD** care homes.

17           (c)    A judge of a District Court or circuit court in the jurisdiction in which the  
18 unregistered family [day] **CHILD** care home is located may issue an administrative  
19 search warrant on finding that:

20                   (1)    the Department has reasonably sought and been denied access to  
21 an unregistered family [day] **CHILD** care home for the purpose of making an  
22 inspection;

23                   (2)    the requirements of subsection (b) of this section are met;

24                   (3)    the official or employee of the Department is authorized or  
25 required by law to make an inspection of the unregistered family [day] **CHILD** care  
26 home for which the warrant is sought; and

27                   (4)    the Department has shown probable cause for the issuance of the  
28 warrant by specific evidence:

29                           (i)    of an existing violation of § 5-552 of this subtitle; and

30                           (ii)   that the health, safety, and welfare of the children in the  
31 unregistered family [day] **CHILD** care home are substantially threatened due to  
32 conditions in the family [day] **CHILD** care home.

1 (e) (1) An administrative search warrant issued under this section  
2 authorizes the State Superintendent and other officials or employees of the State  
3 Department of Education or the Department of Human Resources to enter the  
4 specified property to perform the inspection and other functions authorized by law to  
5 determine compliance with the provisions of this subtitle relating to family [day]  
6 **CHILD** care homes.

7 5-555.

8 (a) The Department shall prepare and, as needed, update an informational  
9 pamphlet for parents of children in family [day] **CHILD** care.

10 (b) The pamphlet shall contain:

11 (1) an outline of family [day] **CHILD** care regulations;

12 (c) The Department shall make the pamphlet available to [day] **CHILD** care  
13 providers for distribution to parents.

14 5-556.

15 (a) In addition to any other provision of law relating to child abuse and  
16 neglect, a local department that receives a report of suspected child abuse under §  
17 5-704 or § 5-705 of this title that concerns a family [day] **CHILD** care home shall  
18 notify the State Superintendent's designee within 48 hours.

19 (f) Upon request, the Department of State Police shall provide technical  
20 assistance to a local law enforcement agency which is investigating a report of  
21 suspected child abuse concerning a family [day] **CHILD** care home.

22 5-556.1.

23 Within 30 days after a child under the age of 6 years enters care in a family  
24 [day] **CHILD** care home, a parent or guardian of the child shall provide to the family  
25 [day] **CHILD** care home evidence of an appropriate screening for lead poisoning. This  
26 evidence may include documentation from the child's continuing care health care  
27 provider that the child was screened through an initial questionnaire and was  
28 determined not to be at risk for lead poisoning.

29 5-559.1.

30 (a) There is a Family [Day] **CHILD** Care Provider Direct Grant Fund  
31 administered by the Department.

32 (b) To administer grants to family [day] **CHILD** care providers, the  
33 Department may contract with State agencies and nonprofit organizations.

1 5-559.2.

2 (b) A grant made under this subtitle shall be awarded as a reimbursement  
3 for the expenses incurred by a family [day] **CHILD** care provider to comply with State  
4 and local regulations.

5 5-559.3.

6 (b) The Direct Grant Fund shall be used to:

7 (2) make grants to family [day] **CHILD** care providers.

8 (d) The amount of State general funds expended for grants to family [day]  
9 **CHILD** care providers from the Direct Grant Fund may not exceed \$50,000 in each  
10 year.

11 5-559.5.

12 (b) The application shall include:

13 (1) the identity and location of the family [day] **CHILD** care provider;

14 (2) an itemization of known and estimated costs;

15 (3) the total amount of funds required by the family [day] **CHILD** care  
16 provider to comply with State and local regulations;

17 (4) the funds available to the applicant without financial assistance  
18 from the Department;

19 (5) the amount of financial assistance sought from the Department;

20 (6) a statement from the family [day] **CHILD** care provider on how the  
21 grant funds will be used;

22 (7) information that relates to the family income of the grant  
23 applicant; and

24 (8) any other relevant information that the Department requests.

25 5-560.

26 (e) (2) For purposes of §§ 5-561(g), 5-564(a)(2)(i) and (c)(1)(i) and (2), and  
27 5-567 of this subtitle, “employer” includes a child care resource and referral center, an  
28 association of registered family [day] **CHILD** care providers, and an association of  
29 licensed child care centers to the extent that the center or association establishes and

1 maintains a pool of individuals who are qualified to work as substitute or temporary  
2 employees in a facility identified in § 5-561(b)(1) or (2) of this subtitle.

3 5-561.

4 (b) The following facilities shall require employees and employers to obtain a  
5 criminal history records check under this Part VI of this subtitle:

6 (2) a family [day] **CHILD** care home required to be registered under  
7 Part V of this subtitle;

8 (c) The following individuals shall obtain a criminal history records check  
9 under this Part VI of this subtitle:

10 (5) any adult known by a local department to be residing in:

11 (i) a family [day] **CHILD** care home required to be registered  
12 under this title;

13 5-564.

14 (b) (1) The Department shall provide an initial and a revised statement of  
15 the applicant's State criminal record to:

16 (ii) the State Department of Education if the applicant is an  
17 employee of:

18 2. a family [day] **CHILD** care home that is required to be  
19 registered under Part V of this subtitle.

20 5-570.

21 (c) (3) "Child care center" does not include:

22 (iv) a family [day] **CHILD** care home that is required to be  
23 registered or is registered under this subtitle.

24 5-573.

25 (b) These rules and regulations shall:

26 (1) ensure safe and sanitary conditions in child care centers;

27 (2) ensure proper care, protection, and supervision of children in child  
28 care centers;

29 (3) ensure the health of children in child care centers by:

- 1 (i) monitoring children for signs and symptoms of child abuse;
- 2 (ii) instructing licensees and staff concerning child abuse  
3 detection and reporting;
- 4 (iii) monitoring health practices to help prevent the spread of  
5 disease; and
- 6 (iv) monitoring the care of infants and children with special  
7 needs;
- 8 (4) promote the sound growth and development of children in child  
9 care centers;
- 10 (5) [encourage the care of children in a homelike environment by  
11 reflecting the impracticability of conforming a residence to standards that are  
12 appropriate for institutions and otherwise providing for centers that are in residences  
13 or other facilities and serve between 7 and 12 children and facilities having 6 or fewer  
14 children required to be licensed under § 5-574 of this subtitle;
- 15 (6)] carry out otherwise the purposes and requirements of this Part VII  
16 of this subtitle, including imposition of intermediate sanctions to ensure compliance;
- 17 [(7)] (6) prohibit a child from remaining at a child care center for  
18 more than 14 hours in 1 day unless the Department issues an exception for that child  
19 based on guidelines set by the State Superintendent;
- 20 [(8)] (7) (i) require that a child care center have in attendance at  
21 all times at least 1 individual who is responsible for supervision of children, including  
22 children on field trips, and who holds a current certificate indicating successful  
23 completion of approved:
- 24 1. basic first aid training through the American Red  
25 Cross or through a program with equivalent standards; and
- 26 2. cardiopulmonary resuscitation (CPR) training  
27 through the American Heart Association or through a program with equivalent  
28 standards appropriate for the ages of children for whom care is provided in the child  
29 care center; and
- 30 (ii) require that a child care center serving more than 20  
31 children have in attendance certificate holders described in item (i) of this item in a  
32 ratio of at least 1 certificate holder for every 20 children;
- 33 [(9)] (8) (i) require that a child care center that receives notice of  
34 a contaminated drinking water supply from the child care center's supplier of water, in

1 accordance with § 9–410 of the Environment Article or otherwise, send notice of the  
2 drinking water contamination to the parent or legal guardian of each child attending  
3 the child care center; and

4 (ii) require that the notice sent by the child care center shall:

5 1. be sent within 10 business days after receipt of the  
6 notice of contamination from the child care center’s water supplier;

7 2. be in writing;

8 3. identify the contaminants and their levels in the  
9 center’s water supply; and

10 4. describe the child care center’s plan for dealing with  
11 the water contamination problem until the child care center’s water is determined by  
12 the appropriate authority to be safe for consumption;

13 ~~[(10)]~~ **(9)** (i) require a child care center to have a written  
14 emergency preparedness plan for emergency situations that require evacuation,  
15 sheltering in place, or other protection of children, such as in the event of fire, natural  
16 disaster, or other threatening situation that may pose a health or safety hazard to the  
17 children in the child care center;

18 (ii) require the plan under item (i) of this item to include:

19 1. a designated relocation site and evacuation route;

20 2. procedures for notifying parents or other adults  
21 responsible for the child of the relocation;

22 3. procedures to address the needs of individual  
23 children, including children with special needs;

24 4. procedures for the reassignment of staff duties during  
25 an emergency, as appropriate; and

26 5. procedures for communicating with local emergency  
27 management officials or other appropriate State or local authorities; and

28 (iii) require a child care center to train staff and ensure that  
29 staff are familiar with the plan; and

30 ~~[(11)]~~ **(10)** require a child care center to have window coverings in  
31 accordance with § 5–505 of this subtitle.

32 5–592.

1 (b) The members shall include:

2 (5) a pediatrician with an interest and expertise in [day] CHILD care  
3 issues, appointed by the State Superintendent;

4 (6) at least two family [day] CHILD care providers, appointed by the  
5 State Superintendent; and

6 (f) (2) A member of the Council who is a user of child care services, a  
7 family [day] CHILD care provider, or a child care provider from a child care center is  
8 entitled to reimbursement for expenses under the Standard State Travel Regulations,  
9 as provided in the State budget.

10 5–594.

11 (c) “Child care provider” means a family [day] CHILD care provider or a  
12 child care center.

13 (e) “Family [day] CHILD care provider” has the meaning stated in § 5–550(d)  
14 of this subtitle.

15 5–594.3.

16 (d) Grants made under this part shall be limited to:

17 (3) family [day] CHILD care homes that serve children who receive  
18 child care subsidies through the purchase of child care program.

19 5–1308.

20 (c) (3) The performance reviews shall determine whether:

21 (v) the foster parent or kinship care provider is receiving all  
22 services necessary to meet the needs of the child, including [day] CHILD care, respite  
23 care, and other support services.

24 6–103.

25 (c) The Department of Human Resources shall:

26 (4) to the extent possible, coordinate delivery of education, health care,  
27 mental health care, employment services, and child [day] care services to single  
28 parents by public and private agencies; and

29 14–202.

1           (a)    The adult protective services program shall include:

2                   (3)    assistance to locate, apply for, and effectively use home care, [day]  
3 **CHILD** care, chore services, transportation, counseling, emergency arrangements, and  
4 other health and social services;

5           SECTION 2. AND BE IT FURTHER ENACTED, That the publisher of the  
6 Annotated Code shall change any reference to “family day care” to be “family child  
7 care” throughout the Annotated Code. These changes are intended by the General  
8 Assembly to be nonsubstantive changes that are consistent with the intent of this Act.

9           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
10 October 1, 2011.