

**Department of Legislative Services**  
Maryland General Assembly  
2016 Session

**FISCAL AND POLICY NOTE**  
**Third Reader - Revised**

House Bill 329

(Delegate Dumais)

Health and Government Operations

Education, Health, and Environmental Affairs

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**Children - Family Child Care Homes and Child Care Centers - Advertising and Penalties**

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This bill alters fines and civil penalties for violations of law regarding the registration, licensure, and advertising of family child care homes and child care centers. The bill authorizes the Office of the State Fire Marshal to visit family child care homes and child care centers if specified conditions are met and generally expands enforcement efforts regarding unregistered or unlicensed child care. The bill requires the Maryland State Department of Education (MSDE) to expand efforts to educate parents and child care providers about specified issues regarding registered and licensed child care and to submit a required report by December 1, 2017.

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**Fiscal Summary**

**State Effect:** Enforcement can be handled with existing resources. Potential minimal increase in civil penalty revenues to the general fund from the bill's penalty provisions.

**Local Effect:** Enforcement can be handled with existing resources.

**Small Business Effect:** Minimal.

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## Analysis

### **Bill Summary/Current Law:**

#### *Family Child Care Homes*

Generally, a family child care home or large family child care home may not operate unless it is registered. 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. A person may not advertise a family child care home, large family child care home, or family child care service unless the home is registered.

A person who violates these provisions is guilty of a misdemeanor and subject to maximum penalties of a \$1,500 fine for a first violation and a \$2,500 fine for second or subsequent violations. The bill establishes that these penalties only apply to violations regarding unregistered care.

Regulations adopted by MSDE require advertisements to indicate that a family child care home or large family child care home is registered and for the registration number to be displayed in the advertisement. The bill codifies these requirements.

Under current law, an employee of MSDE who investigates and enforces child care regulations may serve a civil citation for violations of the provisions regarding advertising and registration. Civil penalties may be imposed in the amount of (1) \$250 for the first violation; (2) \$500 for the second violation; and (3) \$1,000 for a third and subsequent violations. Individuals who violate other statutory provisions, rules, or regulations regarding family child care homes or large family child care homes are subject to maximum civil penalties of \$1,000 for each violation. Any penalty revenues from civil citations are deposited into the State's general fund. Any person served with a citation may appeal to the Office of Administrative Hearings in accordance with statutory provisions. The total amount of civil penalties imposed may not exceed \$5,000.

The bill establishes that an employee of MSDE charged with the investigation and enforcement of child care regulations, the State Fire Marshal, a deputy State Fire Marshal, a special assistant State Fire Marshal, or a local fire marshal may visit the home of a child care provider, and the MSDE employee may serve a civil citation without any other evidence of unregistered family child care if (1) the child care provider advertises a family child care home or large family child care home that is not registered; (2) MSDE sends a warning letter to the child care provider; and (3) the child care provider does not respond

within 10 business days or responds in a manner that does not adequately address the charge in the warning letter. It also authorizes fire marshals who visit child care centers to take any action authorized pursuant to a specified provision of the Public Safety Article (which authorizes the application of an administrative warrant to conduct a fire prevention inspection), the State Fire Prevention Code, or a local fire prevention code.

### *Child Care Centers*

Generally, a person must be licensed by MSDE before operating a child care center. A violator is guilty of a misdemeanor and subject to maximum fines of \$1,500 for a first violation and \$2,500 for a second violation. Under current law, individuals who violate statutory provisions, rules, or regulations regarding child care centers are subject to maximum civil penalties of \$1,000 for each violation, with a maximum total amount of civil penalties of \$5,000. The bill establishes that for violations of provisions regarding the operation of a nonlicensed child care center, civil penalties may be imposed in the amount of (1) \$250 for a first violation; (2) \$500 for a second violation; and (3) \$1,000 for third and subsequent violations.

The bill also establishes that a person may not advertise a child care center unless the person is licensed. An advertisement for a child care center must include the license number and a statement that the center is licensed. If an advertisement is for multiple child care centers operated by a single licensee, the advertisement must state the license number of at least one of the child care centers that the licensee operates. The bill establishes that violations of these provisions are subject to civil penalties of (1) \$250 for a first violation; (2) \$500 for a second violation; and (3) \$1,000 for third and subsequent violations. The bill also extends to child care centers the same provisions specified above regarding the authority of the State Fire Marshall and MSDE to visit the center and serve civil citations.

The bill expresses that it is the intent of the General Assembly that MSDE expand its efforts to educate (1) parents about the potential dangers of unregistered or unlicensed child care and the advantages of care provided by registered and licensed providers and (2) unregulated, unlicensed, or prospective child care providers about the advantages of becoming registered or licensed and the resources available to assist them in doing so. By December 1, 2017, MSDE must report to the Governor and the General Assembly on the status of these efforts.

**Background:** According to MSDE, in 2014 there were 330 complaints of illegal child care, yet only 76 of these resulted in a finding of illegal child care by MSDE. Regarding the remaining complaints, the individuals were either found not to be providing child care or the parents of the children would not confirm that the child care was being provided by a nonrelative.

## Additional Information

**Prior Introductions:** None.

**Cross File:** SB 312 (Senator King, *et al.*) - Education, Health, and Environmental Affairs.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Maryland State Department of Education, Department of State Police, Office of Administrative Hearings, Department of Legislative Services

**Fiscal Note History:** First Reader - February 9, 2016  
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