

II. ACTION ITEMS

B. RECOMMENDATION(S) REGARDING LOCAL BILL 01

EMAIL MEMO

To: PCLB Board of Directors
PCLB Advisory Committee

From: Patsy Buker

Date: December 30, 2010

Re: Status Update Regarding Local Bill 01 and HB

Local Bill 01

As you are aware, Rep. Nehr and Sen. Fasano co-sponsored Local Bill 01 regarding family child care in Pinellas County (Chapter 61-2681 as amended) which was read into the legislative record by Rep. Nehr on November 22, 2010 at the Pinellas County Legislative Forum. Subsequent to that, Colleen Flynn, attorney for the PCLB created a document in legislative style. Ms. Flynn's document is **attached** in this e-mail and was distributed at our Emergency Board meeting on December 14, 2010. At this point, as far as I know, the bill's language has not been altered. Rep. Nehr had requested that PCLB staff meet with local providers to discuss the bill and its potential ramifications and attempt to come up with compromise language.

Ms. Gibson made a presentation regarding Local Bill 01 at the December 14, 2010 meeting of the PCLB. A summary of her presentation and her printed materials are contained in the minutes from that meeting. Subsequent to the Board meeting, Ms. Gibson and I have been in close communication regarding the proposed legislation. I believe that we have made significant progress towards crafting a reasonable compromise, which was the direct request of Rep. Nehr when I spoke with him on November 22nd. Ms. Gibson has been very helpful in relaying information from other providers and offering explanations and rationales for various parts of the proposal. The updated version of Ms. Gibson's suggested language for Local Bill 01 is **attached**.

Ms. Gibson and licensing staff have agreed upon the following changes:

Family Child Care Homes:

- **Ratios of adults to children** in the family child care homes
- **Language regarding training has been deleted** - However, we mutually agree that training is essential and that it should be age and developmentally appropriate according to the ages of children in care.
- For providers who care for larger numbers of children, **require training in Developmentally Appropriate Practices** according to the ages of the children in care, and not limit training solely to Beyond Cribs and Rattles. We feel that we can reach a mutually agreeable compromise on training requirements.

Staff would like to point out that FS 402.302 (8) (c) also requires the following option/restriction:

(c) A maximum of six preschool children if all are older than 12 months of age.

All counties are required to comply with F.S. 402, so it would follow that the above cited requirement should remain in our Pinellas regulations.

Large Family Child Care Homes:

- Under large family child care homes, we have agreed to **add language that incorporates 402.313, F.S.**, which we felt was important.
- We brought back the language that required that **the operator or operator's substitute be on premises when children are in care.**

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- We also agreed that a large family home should first operate for two consecutive years in Florida as a licensed child care home within the five years prior to making application to become a large family child care home. It currently requires this experience to be in Pinellas, but State rules only require experience in Florida, and it seems reasonable to allow experience from Hillsborough, for instance, to qualify.
- We also agreed to continue to require the large homes to meet and comply with all standards of the rule unless the number of children is insufficient to meet the definition of a large home, in which case the need for the second employee would not be required. This is current language that has been reinstated in Ms. Gibson's suggested wording.

I believe that the discussion at the Board meeting on January 3, 2011 will be the next step in creating recommendations to be sent to Rep. Nehr and Sen. Fasano. Staff has reviewed Ms. Gibson's proposed language and feels that it contains appropriate changes regarding provider to child ratios.

F.S. 402 Proposed Revisions

Representative Ahern has created Child Care Bill 1, which is designed to alter Florida Statute 402. We were not able to locate this bill on line as having been officially filed, but we did receive an electronic copy of it yesterday afternoon from Debby Russo at the DCF Program Office for Child Care, and that version is attached. **(To view bill line numbers select "Print Preview")**. As there are proposed changes in Local Bill 01 that would affect Chapter 61-2681 as amended (Pinellas County regulations) and put some of them out of alignment with F.S. 402, the House Bill to make some changes in 402 would be necessary.

We have quickly reviewed this House Bill and we noted the following issues as requiring additional attention:

- Line 118 refers to children temporarily living in the household, and we feel that temporarily would need to be better defined in order to enforce it.
- Line 118 also refers to supervision of the operator's children but it doesn't have any age restrictions in it and we feel that the PCLB would want to consider requesting to have an age limit inserted.
- Line 195 has been amended to say "(2) An individual or a licensing agency has a cause of action against an operator who violates subsection (1)." Although we agree that unlicensed child care is very problematic and it should not be legal to advertise without a license number in the advertisement, we feel that enforcement of this restriction would be onerous and costly for PCLB. I do not believe that there is an adequate appropriation for staff to enforce this and I believe cost reimbursement through the court to the prevailing party would not sufficiently offset costs. I would imagine that unlicensed family child care providers in particular might not have sufficient funds available to cover costs on both sides.

In Summary

At present, our staff is focusing primarily on Local Bill 01. However, we are in contact with the DCF Program Office for Child Care regarding their response to Rep. Ahern's proposal for changes to F.S. 402. We are also in communication with Ms. Gibson regarding the changes to F.S. 402. We have also submitted this material to Colleen Flynn for her legal review. We will be happy to answer questions and/or conduct further research.

Staff recommendations will always reflect our mission of protecting and promoting the health, safety, and mental development of children in child care centers and family child care homes. We believe that in order to follow our mission, we need to not lose focus on quality care and we adhere to the research on child development that affirms that smaller adult to child ratios supports better outcomes in overall development, school readiness, and emotional and physical well being.

Thank you for your dedication to children and your work towards ensuring quality child care in Pinellas County.

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Current version of definitions with proposed changes underlined and deletions struck through

Family child care home – ~~A family child care home means an occupied place of residence of a family, person, or persons who in which child care is regularly provided child care and training for children from at least two (2) unrelated families households, with or without compensation, and which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit. A family day care home shall be allowed to provide care for one of the following groups of children, which shall include those children under 13 years of age who are related to the caregiver:~~

(a) A maximum of four children from birth to 12 months of age.

(b) A maximum of three children from birth to 12 months of age, and other children, for a maximum total of six children.

(c) A maximum of six preschool children if all are older than 12 months of age.

(d) A maximum of 8 children if no more than 5 are preschool age and, of those 5, no more than 2 are under 12 months of age.

~~— for no more than five (5) children at any given time under thirteen (13) years of age who are not related to such person or persons by blood, marriage, or adoption. This includes preschool household members whether present or not and children under thirteen years of age who are in the operator's care and do not reside in the family child care home. Of those five (5) children, no more than three (3) of the five (5) children may be under two (2) years of age, or no more than three (3) of the five (5) children may be under 18 months of age if the provider has proof of completion of an approved training course. A family child care home shall provide child care for a period less than 24 hours per day per child.~~

~~When 3 children in care are under one year old, the provider may have no more than 6 children total including household children under 13 years old who are present~~

~~When 2 children in care are under one year old, the provider may have no more than 10 children total including household children under 13 years old who are present.~~

Large family child care home – ~~A large family child care home means an occupied residence in which child care is regularly provided for children with or without compensation from at least two (2) unrelated families households which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit, and which has at least two (2) full-time child care personnel on the premises during the hours of operation. One (1) of the two (2) full-time child care personnel must be the owner or occupant of the residence. operator or the operator's substitute. A large family child care home must first have operated as a licensed family day child care home for two (2) consecutive 2 years in Pinellas County with an operator who has had a child development associate credential or its equivalent for one (1) year, before seeking licensure as a large family child care home. A large family child care home shall be allowed to provide care for one of the following groups of children, which shall include those children under 13 years of age who are related to the caregiver:~~

- A maximum of 8 children from birth to 24 months of age
- A maximum of 12 children, with no more than 4 children under 24 months of age

~~Large family child care homes must meet and comply with all standards of this rule at all times unless there are insufficient numbers of children in care to meet the definition of a large family child care home in which case an additional employee is not required.~~

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Revised 12/13/2010

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Ms. Lynn Gibson's Suggested Wording for LB 01, as of 12/29/2010:

Family Child Care Home:

Family Child Care Home: means an occupied residence in which child care is regularly provided for children from at least two unrelated households with or without compensation. A family child care home shall be allowed to provide care for one of the following groups of children, which shall include household preschool aged children whether present or not, and household school aged children under 13 years of age when on the premises of the family child care home or on a field trip with children enrolled in care.

A) A maximum of 6 children, if no more than 3 are under 18 months of age.

B) A maximum of 8 children, if no more than five are preschool age and of those five no more than three are under 18 months and of those three no more than two are under 12 months .

Large Family Child Care Home:

Large Family Child Care Home – A large family child care home for the purposes of this rule, means a home that is licensed under section 402.3131, F.S. A large family child care home means an occupied residence in which child care is regularly provided for children with or without compensation from at least two (2) unrelated households and which has at least two (2) full-time child care personnel on the premises during the hours of operation. One (1) of the two (2) full-time child care personnel must be the operator or the operator's substitute. A large family child care home must first have operated as a licensed family child care home for two (2) consecutive years, with an operator who has had a child development associate credential or its equivalent for one (1) year, before seeking licensure as a large family child care home. The two consecutive years of operation as a licensed family child care home must have been in the state of Florida and within five years of the date of application to operate a large family child care home. A large family child care home shall be allowed to provide care for one of the following groups of children, which shall include those children under 13 years of age who are related to the caregiver:

A maximum of 8 children from birth to 24 months of age

A maximum of 12 children, with no more than 4 children under 24 months of age

Large family child care homes must meet and comply with all standards of this rule at all times unless there are insufficient numbers of children in care to meet the definition of a large family child care home in which case an additional employee is not required.

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BILL ORIGINAL YEAR

1 A bill to be entitled
2 An act relating to child care facilities; amending s.
3 402.302, F.S.; revising and providing definitions;
4 providing for certain household children to be included in
5 calculations regarding the capacity of licensed family day
6 care homes and large family child care homes; providing
7 conditions for supervision of household children of
8 operators of family day care homes and large family child
9 care homes; amending s. 402.318, F.S.; revising
10 advertising requirements applicable to child care
11 facilities; providing penalties; authorizing a cause of
12 action against an operator if certain advertising
13 requirements are not met; authorizing the award of
14 attorney's fees and costs under certain conditions;
15 amending s. 411.01, F.S.; conforming a cross-reference;
16 providing an effective date.

17
18 Be It Enacted by the Legislature of the State of Florida:

19
20 Section 1. Section 402.302, Florida Statutes, is amended
21 to read:

22 402.302 Definitions.—As used in this chapter, the term:
23 (1) "Child care" means the care, protection, and
24 supervision of a child, for a period of less than 24 hours a day
25 on a regular basis, which supplements parental care, enrichment,
26 and health supervision for the child, in accordance with his or
27 her individual needs, and for which a payment, fee, or grant is
28 made for care.

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29	(2) "Child care facility" includes any child care center	
30	or child care arrangement which provides child care for more	
31	than five children unrelated to the operator and which receives	
32	a payment, fee, or grant for any of the children receiving care,	
33	wherever operated, and whether or not operated for profit. The	
34	following are not included:	
35	(a) Public schools and nonpublic schools and their	
36	integral programs, except as provided in s. 402.3025;	
37	(b) Summer camps having children in full-time residence;	
38	(c) Summer day camps;	
39	(d) Bible schools normally conducted during vacation	
40	periods; and	
41	(e) Operators of transient establishments, as defined in	
42	chapter 509, which provide child care services solely for the	
43	guests of their establishment or resort, provided that all child	
44	care personnel of the establishment are screened according to	
45	the level 2 screening requirements of chapter 435.	
46	(3) "Child care personnel" means all owners, operators,	
47	employees, and volunteers working in a child care facility. The	
48	term does not include persons who work in a child care facility	
49	after hours when children are not present or parents of children	
50	in a child care facility. For purposes of screening, the term	
51	includes any member, over the age of 12 years, of a child care	
52	facility operator's family, or person, over the age of 12 years,	
53	residing with a child care facility operator if the child care	
54	facility is located in or adjacent to the home of the operator	
55	or if the family member of, or person residing with, the child	
56	care facility operator has any direct contact with the children	

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57 in the facility during its hours of operation. Members of the
58 operator's family or persons residing with the operator who are
59 between the ages of 12 years and 18 years are not required to be
60 fingerprinted but must be screened for delinquency records. For
61 purposes of screening, the term also includes persons who work
62 in child care programs that provide care for children 15 hours
63 or more each week in public or nonpublic schools, family day
64 care homes, or programs otherwise exempted under s. 402.316. The
65 term does not include public or nonpublic school personnel who
66 are providing care during regular school hours, or after hours
67 for activities related to a school's program for grades
68 kindergarten through 12. A volunteer who assists on an
69 intermittent basis for less than 10 hours per month is not
70 included in the term "personnel" for the purposes of screening
71 and training if a person who meets the screening requirement of
72 s. 402.305(2) is always present and has the volunteer in his or
73 her line of sight. Students who observe and participate in a
74 child care facility as a part of their required coursework are
75 not considered child care personnel, provided such observation
76 and participation are on an intermittent basis and a person who
77 meets the screening requirement of s. 402.305(2) is always
78 present and has the student in his or her line of sight.

79 (4) "Child welfare provider" means a licensed child-caring
80 or child-placing agency.

81 (5) "Department" means the Department of Children and
82 Family Services.

83 (6) "Drop-in child care" means child care provided
84 occasionally in a child care facility in a shopping mall or

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BILL ORIGINAL YEAR

85 business establishment where a child is in care for no more than
86 a 4-hour period and the parent remains on the premises of the
87 shopping mall or business establishment at all times. Drop-in
88 child care arrangements shall meet all requirements for a child
89 care facility unless specifically exempted.

90 (7) "Evening child care" means child care provided during
91 the evening hours and may encompass the hours of 6:00 p.m. to
92 7:00 a.m. to accommodate parents who work evenings and late-
93 night shifts.

94 (8) "Family day care home" means an occupied residence in
95 which child care is regularly provided for children from at
96 least two unrelated families and which receives a payment, fee,
97 or grant for any of the children receiving care, whether or not
98 operated for profit. Household children under 13 years of age,
99 when on the premises of the family day care home or on a field
100 trip with children enrolled in child care, shall be included in
101 the overall capacity of the licensed home. A family day care
102 home shall be allowed to provide care for one of the following
103 groups of children, which shall include household ~~those~~ children
104 under 13 years of age ~~who are related to the caregiver:~~

105 (a) A maximum of four children from birth to 12 months of
106 age.

107 (b) A maximum of three children from birth to 12 months of
108 age, and other children, for a maximum total of six children.

109 (c) A maximum of six preschool children if all are older
110 than 12 months of age.

111 (d) A maximum of 10 children if no more than 5 are
112 preschool age and, of those 5, no more than 2 are under 12

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113	months of age.	
114	<u>(9) "Household children" means children who are related by</u>	
115	<u>blood, marriage, or legal adoption to, or who are the legal</u>	
116	<u>wards of, the family day care home operator, the large family</u>	
117	<u>child care home operator, or an adult household member who</u>	
118	<u>permanently or temporarily resides in the home. Supervision of</u>	
119	<u>the operator's household children shall be left to the</u>	
120	<u>discretion of the operator unless those children receive</u>	
121	<u>subsidized child care to be in the home.</u>	
122	<u>(10)(9) "Large family child care home" means an occupied</u>	
123	residence in which child care is regularly provided for children	
124	from at least two unrelated families, which receives a payment,	
125	fee, or grant for any of the children receiving care, whether or	
126	not operated for profit, and which has at least two full-time	
127	child care personnel on the premises during the hours of	
128	operation. One of the two full-time child care personnel must be	
129	the owner or occupant of the residence. A large family child	
130	care home must first have operated as a licensed family day care	
131	home for 2 years, with an operator who has had a child	
132	development associate credential or its equivalent for 1 year,	
133	before seeking licensure as a large family child care home.	
134	<u>Household children under 13 years of age, when on the premises</u>	
135	<u>of the large family child care home or on a field trip with</u>	
136	<u>children enrolled in child care, shall be included in the</u>	
137	<u>overall capacity of the licensed home.</u> A large family child care	
138	home shall be allowed to provide care for one of the following	
139	groups of children, which shall include <u>household</u> these children	
140	under 13 years of age who are related to the caregiver:	

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141	(a) A maximum of 8 children from birth to 24 months of	
142	age.	
143	(b) A maximum of 12 children, with no more than 4 children	
144	under 24 months of age.	
145	<u>(11)</u> (10) "Indoor recreational facility" means an indoor	
146	commercial facility which is established for the primary purpose	
147	of entertaining children in a planned fitness environment	
148	through equipment, games, and activities in conjunction with	
149	food service and which provides child care for a particular	
150	child no more than 4 hours on any one day. An indoor	
151	recreational facility must be licensed as a child care facility	
152	under s. 402.305, but is exempt from the minimum outdoor-square-	
153	footage-per-child requirement specified in that section, if the	
154	indoor recreational facility has, at a minimum, 3,000 square	
155	feet of usable indoor floor space.	
156	<u>(12)</u> (11) "Local licensing agency" means any agency or	
157	individual designated by the county to license child care	
158	facilities.	
159	<u>(13)</u> (12) "Operator" means any onsite person ultimately	
160	responsible for the overall operation of a child care facility,	
161	whether or not he or she is the owner or administrator of such	
162	facility.	
163	<u>(14)</u> (13) "Owner" means the person who is licensed to	
164	operate the child care facility.	
165	<u>(15)</u> (14) "Screening" means the act of assessing the	
166	background of child care personnel and volunteers and includes,	
167	but is not limited to, employment history checks, local criminal	
168	records checks through local law enforcement agencies,	

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169	fingerprinting for all purposes and checks in this subsection,	
170	statewide criminal records checks through the Department of Law	
171	Enforcement, and federal criminal records checks through the	
172	Federal Bureau of Investigation.	
173	(16) (15) "Secretary" means the Secretary of Children and	
174	Family Services.	
175	(17) (16) "Substantial compliance" means that level of	
176	adherence which is sufficient to safeguard the health, safety,	
177	and well-being of all children under care. Substantial	
178	compliance is greater than minimal adherence but not to the	
179	level of absolute adherence. Where a violation or variation is	
180	identified as the type which impacts, or can be reasonably	
181	expected within 90 days to impact, the health, safety, or well-	
182	being of a child, there is no substantial compliance.	
183	(18) (17) "Weekend child care" means child care provided	
184	between the hours of 6 p.m. on Friday and 6 a.m. on Monday.	
185	Section 2. Section 402.318, Florida Statutes, is amended	
186	to read:	
187	402.318 Advertisement.—	
188	<u>(1) No person, as defined in s. 1.01(3), shall advertise a</u>	
189	<u>child care facility, family day care home, or large family child</u>	
190	<u>care home</u> without including within such advertisement the state	
191	or local agency license number <u>or registration number</u> of such	
192	facility <u>or home</u> . Violation of this <u>subsection</u> section is a	
193	misdemeanor of the first degree, punishable as provided in s.	
194	775.082 or s. 775.083.	
195	<u>(2) An individual has a cause of action against an</u>	
196	<u>operator who violates subsection (1). The court shall award the</u>	

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197	<u>prevailing party reasonable attorney's fees and costs incurred</u>	
198	<u>in connection with a claim filed under this section.</u>	
199	Section 3. Paragraph (c) of subsection (5) of section	
200	411.01, Florida Statutes, is amended to read:	
201	411.01 School readiness programs; early learning	
202	coalitions.-	
203	(5) CREATION OF EARLY LEARNING COALITIONS.-	
204	(c) Program expectations.-	
205	1. The school readiness program must meet the following	
206	expectations:	
207	a. The program must, at a minimum, enhance the age-	
208	appropriate progress of each child in attaining the performance	
209	standards and outcome measures adopted by the Agency for	
210	Workforce Innovation.	
211	b. The program must provide extended-day and extended-year	
212	services to the maximum extent possible without compromising the	
213	quality of the program to meet the needs of parents who work.	
214	c. The program must provide a coordinated professional	
215	development system that supports the achievement and maintenance	
216	of core competencies by school readiness instructors in helping	
217	children attain the performance standards and outcome measures	
218	adopted by the Agency for Workforce Innovation.	
219	d. There must be expanded access to community services and	
220	resources for families to help achieve economic self-	
221	sufficiency.	
222	e. There must be a single point of entry and unified	
223	waiting list. As used in this sub-subparagraph, the term "single	
224	point of entry" means an integrated information system that	

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225	allows a parent to enroll his or her child in the school	
226	readiness program at various locations throughout a county, that	
227	may allow a parent to enroll his or her child by telephone or	
228	through an Internet website, and that uses a unified waiting	
229	list to track eligible children waiting for enrollment in the	
230	school readiness program. The Agency for Workforce Innovation	
231	shall establish through technology a single statewide	
232	information system that each coalition must use for the purposes	
233	of managing the single point of entry, tracking children's	
234	progress, coordinating services among stakeholders, determining	
235	eligibility, tracking child attendance, and streamlining	
236	administrative processes for providers and early learning	
237	coalitions.	
238	f. The Agency for Workforce Innovation must consider the	
239	access of eligible children to the school readiness program, as	
240	demonstrated in part by waiting lists, before approving a	
241	proposed increase in payment rates submitted by an early	
242	learning coalition. In addition, early learning coalitions shall	
243	use school readiness funds made available due to enrollment	
244	shifts from school readiness programs to the Voluntary	
245	Prekindergarten Education Program for increasing the number of	
246	children served in school readiness programs before increasing	
247	payment rates.	
248	g. The program must meet all state licensing guidelines,	
249	where applicable.	
250	h. The program must ensure that minimum standards for	
251	child discipline practices are age-appropriate. Such standards	
252	must provide that children not be subjected to discipline that	

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253	is severe, humiliating, or frightening or discipline that is	
254	associated with food, rest, or toileting. Spanking or any other	
255	form of physical punishment is prohibited.	
256	2. Each early learning coalition must implement a	
257	comprehensive program of school readiness services in accordance	
258	with the rules adopted by the agency which enhance the	
259	cognitive, social, and physical development of children to	
260	achieve the performance standards and outcome measures. At a	
261	minimum, these programs must contain the following system	
262	support service elements:	
263	a. Developmentally appropriate curriculum designed to	
264	enhance the age-appropriate progress of children in attaining	
265	the performance standards adopted by the Agency for Workforce	
266	Innovation under subparagraph (4)(d)8.	
267	b. A character development program to develop basic	
268	values.	
269	c. An age-appropriate screening of each child's	
270	development.	
271	d. An age-appropriate assessment administered to children	
272	when they enter a program and an age-appropriate assessment	
273	administered to children when they leave the program.	
274	e. An appropriate staff-to-children ratio, pursuant to s.	
275	402.305(4) or s. 402.302(8) or <u>(10)(7)</u> or (8) , as applicable,	
276	and as verified pursuant to s. 402.311.	
277	f. A healthy and safe environment pursuant to s.	
278	401.305(5), (6), and (7), as applicable, and as verified	
279	pursuant to s. 402.311.	
280	g. A resource and referral network established under s.	

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V

II. ACTION ITEMS

B. RECOMMENDATION(S) REGARDING LOCAL BILL 01

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

BILL	ORIGINAL	YEAR
281	411.0101 to assist parents in making an informed choice and a	
282	regional Warm-Line under s. 411.01015.	
283		
284	The Agency for Workforce Innovation, the Department of	
285	Education, and early learning coalitions shall coordinate with	
286	the Child Care Services Program Office of the Department of	
287	Children and Family Services to minimize duplicating interagency	
288	activities pertaining to acquiring and composing data for child	
289	care training and credentialing.	
290	Section 4. This act shall take effect July 1, 2011.	