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MEMORANDUM

TO: Board of County Commissioners

FROM: Scott Andron, Assistant County Attorney /s/ *Scott Andron*

DATE: October 27, 2023

RE: **Child Care Licensing and Enforcement Ordinance**

This memorandum provides a brief overview of the key changes proposed in this amendment to the County's child care regulations, which was prepared by our Office in coordination with the County's Child Care Licensing and Enforcement Section (CCLE). By way of background, the County regulates three major classes of child care arrangements:

1. **Child Care Facilities**, which are typically storefront or freestanding businesses required to be licensed to operate;
2. **Family Child Care Homes**, which are home-based child care arrangements that require a license to operate; and
3. **Substantial Compliance Facilities**, which are similar to other child care facilities but are operated by a religious institution or a private school and are not required to have a license to operate.

The primary changes to child care regulation in the proposed Ordinance include:

1. Consolidation. The proposed Ordinance consolidates regulations from the County's two current child care ordinances (in Chapters 7 and 20) into a single, new Chapter 7.
2. Incorporation of state regulations. The proposed Ordinance removes regulations that merely repeat the state regulations, and instead simply incorporates the state regulations by reference. This allows for more concise local regulations and automatic inclusion of any updates to the state regulations.

3. Changes in classification of violations. Violations range from Class I (the most serious) to Class III (the least serious). The proposed Ordinance provides the general definitions for each class, but also assigns certain types of violations to a specific classification. CCLE recommends changes to the classification of some violations based on the agency's enforcement experience.

4. Fines for substantial compliance facilities. The proposed Ordinance adds fines for violations by substantial compliance facilities. While most such facilities are compliant, a small number have had uncorrected, repeat violations. Currently, the only penalty is revocation of exemption from licensure. The proposed revisions permit intermediate enforcement options, such as Notices of Violation (NOVs) and administrative fines.

5. Optional use of state administrative law judges. NOVs, fines, license revocation, and other disciplinary measures are currently adjudicated before a hearing officer. Under the proposed Ordinance, a hearing officer would remain the primary option, but utilization of an administrative law judge from the Florida Division of Administrative Hearings (DOAH) would also be available (for example, in a complex case or if a local hearing officer were unavailable).

6. Changes to hearing officer authority. Currently, the hearing officer issues findings of fact and a recommended order after the hearing, and recommended orders are subject to final approval or rejection by the Consumer Protection Division (CPD) Director. The proposed Ordinance would allow hearing officers to issue final orders in cases that deal only with NOVs or fines; more serious matters, such as license revocation, would be subject to final approval or rejection by the County Administrator's designee, who would no longer necessarily be the director of CPD.

7. Settlement of disputes. The proposed Ordinance would authorize CCLE to settle NOVs when it is in the County's best interest to do so, subject to certain parameters. CCLE would provide a quarterly settlement report to the County Administrator.

8. Minimum insurance requirements. The proposed Ordinance would increase the minimum general liability insurance requirement to \$500,000 for facilities, and \$100,000 for homes. The previous minimum was \$100,000 for facilities with no insurance requirement for homes.

9. Effective date. The Ordinance would take effect on April 1, 2024, to allow time for CCLE to inform the child care community regarding the changes.

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If you have any questions, please contact me (x7645 or sandron@broward.org), Senior Assistant County Attorney Nathaniel Klitsberg (x7622 or nklitsberg@broward.org), or the County Attorney.

SA/cv

c: Monica Cepero, County Administrator
Bob Melton, County Auditor
Andrew J. Meyers, County Attorney
Nathaniel Klitsberg, Senior Assistant County Attorney