

1 A bill to be entitled
2 An act relating to licensure of child care programs;
3 amending s. 402.301, F.S.; requiring certain
4 organizations providing after-school child care
5 programs to be licensed as child care facilities;
6 amending s. 402.302, F.S.; defining the terms "after-
7 school program" and "school-age child"; revising the
8 definitions of the terms "child care" and "child care
9 facility"; amending s. 402.305, F.S.; removing a
10 requirement to adopt a definition by rule; providing
11 exemptions from child care facility licensing
12 standards relating to minimum square footage for
13 usable areas and restroom and bath facilities;
14 providing applicability; amending ss. 39.201, 402.317,
15 435.07, 1002.82, and 1002.88, F.S.; conforming cross-
16 references; providing an effective date.

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

19
20 Section 1. Subsection (6) of section 402.301, Florida
21 Statutes, is amended to read:

22 402.301 Child care facilities; legislative intent and
23 declaration of purpose and policy.—It is the legislative intent
24 to protect the health, safety, and well-being of the children of
25 the state and to promote their emotional and intellectual

26 development and care. Toward that end:

27 (6) It is further the intent that membership organizations
28 affiliated with national organizations which do not provide
29 child care, whose primary purpose is providing activities that
30 contribute to the development of good character or good
31 sportsmanship or to the education or cultural development of
32 minors in this state, which charge only a nominal annual
33 membership fee, which are not for profit, and which are
34 certified by their national associations as being in compliance
35 with the association's minimum standards and procedures shall
36 not be considered child care facilities. However, such
37 membership organizations that provide child care must be
38 licensed as a child care facility as required under this
39 chapter. Notwithstanding licensure status, all personnel as
40 defined in s. 402.302 of such membership organizations shall
41 meet background screening requirements through the department
42 pursuant to ss. 402.305 and 402.3055.

43 Section 2. Subsections (1) through (14) and (15) through
44 (18) of section 402.302, Florida Statutes, are renumbered as
45 subsections (2) through (15) and (17) through (20),
46 respectively, present subsections (1) and (2) are amended, and
47 new subsections (1) and (16) are added to that section, to read:

48 402.302 Definitions.—As used in this chapter, the term:

49 (1) "After-school program" means child care for school-age
50 children during out-of-school times, including, but not limited

51 to, before school or after school, school breaks, and inservice
52 planning days.

53 (a) An after-school program includes, but is not limited
54 to, a program that does not require a parent to be in attendance
55 while the child is at the facility and satisfies three or more
56 of the following elements:

57 1. Provides transportation to or from the facility where
58 the program is offered.

59 2. Provides meals or snacks to children participating in
60 the program.

61 3. Provides more than one type of activity, including, but
62 not limited to, educational, artistic, athletic, or self-
63 directed activities.

64 4. Provides tutoring or homework assistance, or includes a
65 specific time for children to complete homework while at the
66 facility.

67 5. Advertises or holds itself out as providing child care
68 or being an after-school program.

69 6. Takes children on field trips.

70 (b) An after-school program does not include:

71 1. A program on a public or nonpublic school site that is
72 operated and staffed directly by the school or through a formal
73 agreement between the school and a provider to serve children
74 who attend that school. A lease for space or user agreement is
75 not considered a formal agreement.

76 2. A program that is solely instructional or tutorial.
 77 3. An open-access program. An open-access program is a
 78 program that allows children to come and go at will. An open-
 79 access program may not:
 80 a. Serve children for more than 4 hours per regular school
 81 day.
 82 b. Advertise or otherwise represent that it provides child
 83 care or after-school care, is an after-school program, or offers
 84 supervision.
 85 c. Provide supervision.
 86 d. Provide transportation, directly or indirectly.
 87 e. Provide meals or snacks outside of the federal
 88 Afterschool Meal Program.
 89 f. Deliver a school readiness program pursuant to s.
 90 1002.88.
 91 4. A program that does not hold a Gold Seal Quality Care
 92 designation under s. 402.281 that provides child care
 93 exclusively for children in grades 6 through 12.
 94 (2)~~(1)~~ "Child care" means the care, protection, and
 95 supervision of a child, for a period of less than 24 hours a day
 96 on a regular basis, which supplements parental care, enrichment,
 97 and health supervision for the child, in accordance with his or
 98 her individual needs, and for which a payment, fee, or grant is
 99 made for care. A nominal membership fee is a fee for care. Child
 100 care may also include, but is not limited to, providing

101 transportation, food services, educational activities, and
102 instructional activities.

103 (3)-(2) "Child care facility" includes any child care
104 center, after-school program, or child care arrangement which
105 provides child care for more than five children unrelated to the
106 operator and which receives a payment, fee, or grant for any of
107 the children receiving care, wherever operated, and whether or
108 not operated for profit. The following are not included:

109 (a) Public schools and nonpublic schools and ~~their~~
110 ~~integral~~ programs that occur during regular school hours, except
111 for programs ~~as~~ provided in s. 402.3025;

112 (b) Summer camps having children in full-time residence;

113 (c) Summer day camps;

114 (d) Bible schools normally conducted during vacation
115 periods; and

116 (e) Operators of transient establishments, as defined in
117 chapter 509, which provide child care services solely for the
118 guests of their establishment or resort, provided that all child
119 care personnel of the establishment are screened according to
120 the level 2 screening requirements of chapter 435.

121 (16) "School-age child" means a child who is at least 5
122 years of age but not older than 12 years of age by September 1
123 of the beginning of the school year and who attends grades
124 kindergarten and above.

125 Section 3. Paragraph (c) of subsection (1) and subsection

126 (6) of section 402.305, Florida Statutes, are amended to read:

127 402.305 Licensing standards; child care facilities.—

128 (1) LICENSING STANDARDS.—The department shall establish
129 licensing standards that each licensed child care facility must
130 meet regardless of the origin or source of the fees used to
131 operate the facility or the type of children served by the
132 facility.

133 (c) The minimum standards for child care facilities shall
134 be adopted in the rules of the department and shall address the
135 areas delineated in this section.

136 1. The department, in adopting rules to establish minimum
137 standards for child care facilities, shall recognize that
138 different age groups of children may require different
139 standards. The department may adopt different minimum standards
140 for facilities that serve children in different age groups,
141 including school-age children. ~~The department shall also adopt~~
142 ~~by rule a definition for child care which distinguishes between~~
143 ~~child care programs that require child care licensure and after-~~
144 ~~school programs that do not require licensure.~~

145 2. Notwithstanding any other provision of law to the
146 contrary, minimum child care licensing standards shall be
147 developed to provide for reasonable, affordable, and safe
148 before-school and after-school care.

149 3. ~~After-school~~ Programs that otherwise meet the criteria
150 for exclusion from child care licensure as an after-school

151 program may provide snacks and meals through the federal
152 Afterschool Meal Program (AMP) administered by the Department of
153 Health in accordance with federal regulations and standards. The
154 Department of Health shall consider meals to be provided through
155 the AMP only if the program is actively participating in the
156 AMP, is in good standing with the department, and the meals meet
157 AMP requirements.

158 4. Standards, at a minimum, shall allow for a credentialed
159 director to supervise multiple ~~before-school and~~ after-school
160 program sites.

161 (6) SQUARE FOOTAGE PER CHILD.—Minimum standards shall be
162 established by the department by rule.

163 (a) A child care facility that holds a valid license on
164 October 1, 1992, must have a minimum of 20 square feet of usable
165 indoor floor space for each child and a minimum of 45 square
166 feet of usable outdoor play area for each child. Outdoor play
167 area shall be calculated at the rate of 45 feet per child in any
168 group using the play area at one time. A minimum play area shall
169 be provided for one half of the licensed capacity. This standard
170 applies as long as the child care facility remains licensed at
171 the site occupied on October 1, 1992, and shall not be affected
172 by any change in the ownership of the site.

173 (b)1. A child care facility that does not hold a valid
174 license on October 1, 1992, and seeks regulatory approval to
175 operate as a child care facility must have a minimum of 35

176 square feet of usable floor space for each child and a minimum
 177 of 45 square feet of usable outdoor play area for each child.

178 2. A membership organization affiliated with a national
 179 organization, which is licensed after July 1, 2018, and before
 180 June 30, 2020, for an after-school program, is exempt from
 181 facility requirements related to square footage for usable
 182 indoor floor space, square footage for usable outdoor play area,
 183 and restroom and bath facilities. Such an organization that
 184 remodels its facility or begins using a new facility on or after
 185 July 1, 2020, shall meet the square footage requirements for
 186 usable indoor floor space and usable outdoor play area in
 187 subparagraph 1., and any restroom and bath facility requirements
 188 specified in rule.

189
 190 The minimum standard for outdoor play area does not apply in
 191 calculating square footage for children under 1 year of age.
 192 However, appropriate outdoor infant equipment shall be
 193 substituted for outdoor play space. The centers shall provide
 194 facilities and equipment conducive to the physical activities
 195 appropriate for the age and physical development of the child.

196 Section 4. Subsection (6) of section 39.201, Florida
 197 Statutes, is amended to read:

198 39.201 Mandatory reports of child abuse, abandonment, or
 199 neglect; mandatory reports of death; central abuse hotline.—

200 (6) Information in the central abuse hotline may not be

201 used for employment screening, except as provided in s.
202 39.202(2)(a) and (h) or s. 402.302(16) ~~s. 402.302(15)~~.
203 Information in the central abuse hotline and the department's
204 automated abuse information system may be used by the
205 department, its authorized agents or contract providers, the
206 Department of Health, or county agencies as part of the
207 licensure or registration process pursuant to ss. 402.301-
208 402.319 and ss. 409.175-409.176. Pursuant to s. 39.202(2)(q),
209 the information in the central abuse hotline may also be used by
210 the Department of Education for purposes of educator
211 certification discipline and review.

212 Section 5. Section 402.317, Florida Statutes, is amended
213 to read:

214 402.317 Prolonged child care.—Notwithstanding the time
215 restriction specified in s. 402.302(2) ~~s. 402.302(1)~~, child care
216 may be provided for 24 hours or longer for a child whose parent
217 or legal guardian works a shift of 24 hours or more. The
218 requirement that a parent or legal guardian work a shift of 24
219 hours or more must be certified in writing by the employer, and
220 the written certification shall be maintained in the facility by
221 the child care provider and made available to the licensing
222 agency. The time that a child remains in child care, however,
223 may not exceed 72 consecutive hours in any 7-day period. During
224 a declared state of emergency, the child care licensing agency
225 may temporarily waive the time limitations provided in this

226 section.

227 Section 6. Paragraph (c) of subsection (4) of section
228 435.07, Florida Statutes, is amended to read:

229 435.07 Exemptions from disqualification.—Unless otherwise
230 provided by law, the provisions of this section apply to
231 exemptions from disqualification for disqualifying offenses
232 revealed pursuant to background screenings required under this
233 chapter, regardless of whether those disqualifying offenses are
234 listed in this chapter or other laws.

235 (4)

236 (c) Disqualification from employment under this chapter
237 may not be removed from, and an exemption may not be granted to,
238 any current or prospective child care personnel, as defined in
239 s. 402.302(4) ~~s. 402.302(3)~~, and such a person is disqualified
240 from employment as child care personnel, regardless of any
241 previous exemptions from disqualification, if the person has
242 been registered as a sex offender as described in 42 U.S.C. s.
243 9858f(c) (1) (C) or has been arrested for and is awaiting final
244 disposition of, has been convicted or found guilty of, or
245 entered a plea of guilty or nolo contendere to, regardless of
246 adjudication, or has been adjudicated delinquent and the record
247 has not been sealed or expunged for, any offense prohibited
248 under any of the following provisions of state law or a similar
249 law of another jurisdiction:

250 1. A felony offense prohibited under any of the following

- 251 statutes:
- 252 a. Chapter 741, relating to domestic violence.
- 253 b. Section 782.04, relating to murder.
- 254 c. Section 782.07, relating to manslaughter, aggravated
- 255 manslaughter of an elderly person or disabled adult, aggravated
- 256 manslaughter of a child, or aggravated manslaughter of an
- 257 officer, a firefighter, an emergency medical technician, or a
- 258 paramedic.
- 259 d. Section 784.021, relating to aggravated assault.
- 260 e. Section 784.045, relating to aggravated battery.
- 261 f. Section 787.01, relating to kidnapping.
- 262 g. Section 787.025, relating to luring or enticing a
- 263 child.
- 264 h. Section 787.04(2), relating to leading, taking,
- 265 enticing, or removing a minor beyond the state limits, or
- 266 concealing the location of a minor, with criminal intent pending
- 267 custody proceedings.
- 268 i. Section 787.04(3), relating to leading, taking,
- 269 enticing, or removing a minor beyond the state limits, or
- 270 concealing the location of a minor, with criminal intent pending
- 271 dependency proceedings or proceedings concerning alleged abuse
- 272 or neglect of a minor.
- 273 j. Section 794.011, relating to sexual battery.
- 274 k. Former s. 794.041, relating to sexual activity with or
- 275 solicitation of a child by a person in familial or custodial

276 authority.

277 1. Section 794.05, relating to unlawful sexual activity

278 with certain minors.

279 m. Section 794.08, relating to female genital mutilation.

280 n. Section 806.01, relating to arson.

281 o. Section 826.04, relating to incest.

282 p. Section 827.03, relating to child abuse, aggravated

283 child abuse, or neglect of a child.

284 q. Section 827.04, relating to contributing to the

285 delinquency or dependency of a child.

286 r. Section 827.071, relating to sexual performance by a

287 child.

288 s. Chapter 847, relating to child pornography.

289 t. Section 985.701, relating to sexual misconduct in

290 juvenile justice programs.

291 2. A misdemeanor offense prohibited under any of the

292 following statutes:

293 a. Section 784.03, relating to battery, if the victim of

294 the offense was a minor.

295 b. Section 787.025, relating to luring or enticing a

296 child.

297 c. Chapter 847, relating to child pornography.

298 3. A criminal act committed in another state or under

299 federal law which, if committed in this state, constitutes an

300 offense prohibited under any statute listed in subparagraph 1.

301 or subparagraph 2.

302 Section 7. Paragraph (w) of subsection (2) of section
 303 1002.82, Florida Statutes, is amended to read:

304 1002.82 Office of Early Learning; powers and duties.—

305 (2) The office shall:

306 (w) Establish staff-to-children ratios that do not exceed
 307 the requirements of s. 402.302(9) or (12) ~~s. 402.302(8) or (11)~~
 308 or s. 402.305(4), as applicable, for school readiness program
 309 providers.

310 Section 8. Paragraph (e) of subsection (1) of section
 311 1002.88, Florida Statutes, is amended to read:

312 1002.88 School readiness program provider standards;
 313 eligibility to deliver the school readiness program.—

314 (1) To be eligible to deliver the school readiness
 315 program, a school readiness program provider must:

316 (e) Employ child care personnel, as defined in s.
 317 402.302(4) ~~s. 402.302(3)~~, who have satisfied the screening
 318 requirements of chapter 402 and fulfilled the training
 319 requirements of the office.

320 Section 9. This act shall take effect July 1, 2018.