

By Senator Hutson

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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 offering child care through after-school
5 programs to be licensed as child care facilities;
6 amending s. 402.302, F.S.; defining the term "after-
7 school program"; amending s. 402.305, F.S.; conforming
8 provisions to changes made by the act; amending ss.
9 39.201, 402.317, 435.07, 1002.82, and 1002.88, F.S.;
10 conforming cross-references; providing an effective
11 date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Subsection (6) of section 402.301, Florida
16 Statutes, is amended to read:

17 402.301 Child care facilities; legislative intent and
18 declaration of purpose and policy.—It is the legislative intent
19 to protect the health, safety, and well-being of the children of
20 the state and to promote their emotional and intellectual
21 development and care. Toward that end:

22 (6) It is further the intent that membership organizations
23 affiliated with national organizations which do not provide
24 child care, whose primary purpose is providing activities that
25 contribute to the development of good character or good
26 sportsmanship or to the education or cultural development of
27 minors in this state, which charge only a nominal annual
28 membership fee, which are not for profit, and which are
29 certified by their national associations as being in compliance

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30 with the association's minimum standards and procedures shall
31 not be considered child care facilities. However, such
32 membership organizations that provide child care, including, but
33 not limited to, child care offered through an after-school
34 program, must be licensed as a child care facility as required
35 under this chapter. Notwithstanding licensure or registration
36 status, all personnel as defined in s. 402.302 of such
37 membership organizations shall meet background screening
38 requirements through the department pursuant to ss. 402.305 and
39 402.3055.

40 Section 2. Subsections (1) through (18) of section 402.302,
41 Florida Statutes, are redesignated as subsections (2) through
42 (19), respectively, and a new subsection (1) is added to that
43 section, to read:

44 402.302 Definitions.—As used in this chapter, the term:

45 (1) "After-school program" means a program that offers
46 child care for school-age children during out-of-school times,
47 including, but not limited to, before school or after school.

48 The term does not include:

49 (a) A program on a school site that is operated by the
50 school or through a formal agreement between the school and a
51 provider to serve children who attend that school.

52 (b) A program that is solely instructional or tutorial.

53 (c) An open-access program.

54 (d) A program that provides child care exclusively for
55 children in grades 6 through 12 and does not hold a Gold Seal
56 Quality Care designation under s. 402.281.

57 Section 3. Paragraph (c) of subsection (1) of section
58 402.305, Florida Statutes, is amended to read:

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59 402.305 Licensing standards; child care facilities.—

60 (1) LICENSING STANDARDS.—The department shall establish
61 licensing standards that each licensed child care facility must
62 meet regardless of the origin or source of the fees used to
63 operate the facility or the type of children served by the
64 facility.

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

68 1. The department, in adopting rules to establish minimum
69 standards for child care facilities, shall recognize that
70 different age groups of children may require different
71 standards. The department may adopt different minimum standards
72 for facilities that serve children in different age groups,
73 including school-age children. ~~The department shall also adopt~~
74 ~~by rule a definition for child care which distinguishes between~~
75 ~~child care programs that require child care licensure and after-~~
76 ~~school programs that do not require licensure.~~

77 2. Notwithstanding any other provision of law to the
78 contrary, minimum child care licensing standards shall be
79 developed to provide for reasonable, affordable, and safe
80 before-school and after-school care.

81 3. ~~After-school~~ Programs that otherwise meet the criteria
82 for exclusion from child care licensure as an after-school
83 program may provide snacks and meals through the federal
84 Afterschool Meal Program (AMP) administered by the Department of
85 Health in accordance with federal regulations and standards. The
86 Department of Health shall consider meals to be provided through
87 the AMP only if the program is actively participating in the

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88 AMP, is in good standing with the department, and the meals meet
89 AMP requirements.

90 4. Standards, at a minimum, shall allow for a credentialed
91 director to supervise multiple ~~before-school and~~ after-school
92 program sites.

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

95 39.201 Mandatory reports of child abuse, abandonment, or
96 neglect; mandatory reports of death; central abuse hotline.—

97 (6) Information in the central abuse hotline may not be
98 used for employment screening, except as provided in s.

99 39.202(2) (a) and (h) or s. 402.302(16) ~~s. 402.302(15)~~.

100 Information in the central abuse hotline and the department's
101 automated abuse information system may be used by the
102 department, its authorized agents or contract providers, the
103 Department of Health, or county agencies as part of the
104 licensure or registration process pursuant to ss. 402.301-
105 402.319 and ss. 409.175-409.176. Pursuant to s. 39.202(2) (q),
106 the information in the central abuse hotline may also be used by
107 the Department of Education for purposes of educator
108 certification discipline and review.

109 Section 5. Section 402.317, Florida Statutes, is amended to
110 read:

111 402.317 Prolonged child care.—Notwithstanding the time
112 restriction specified in s. 402.302(2) ~~s. 402.302(1)~~, child care
113 may be provided for 24 hours or longer for a child whose parent
114 or legal guardian works a shift of 24 hours or more. The
115 requirement that a parent or legal guardian work a shift of 24
116 hours or more must be certified in writing by the employer, and

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117 the written certification shall be maintained in the facility by
118 the child care provider and made available to the licensing
119 agency. The time that a child remains in child care, however,
120 may not exceed 72 consecutive hours in any 7-day period. During
121 a declared state of emergency, the child care licensing agency
122 may temporarily waive the time limitations provided in this
123 section.

124 Section 6. Paragraph (c) of subsection (4) of section
125 435.07, Florida Statutes, is amended to read:

126 435.07 Exemptions from disqualification.—Unless otherwise
127 provided by law, the provisions of this section apply to
128 exemptions from disqualification for disqualifying offenses
129 revealed pursuant to background screenings required under this
130 chapter, regardless of whether those disqualifying offenses are
131 listed in this chapter or other laws.

132 (4)

133 (c) Disqualification from employment under this chapter may
134 not be removed from, and an exemption may not be granted to, any
135 current or prospective child care personnel, as defined in s.
136 402.302(4) ~~s. 402.302(3)~~, and such a person is disqualified from
137 employment as child care personnel, regardless of any previous
138 exemptions from disqualification, if the person has been
139 registered as a sex offender as described in 42 U.S.C. s.
140 9858f(c)(1)(C) or has been arrested for and is awaiting final
141 disposition of, has been convicted or found guilty of, or
142 entered a plea of guilty or nolo contendere to, regardless of
143 adjudication, or has been adjudicated delinquent and the record
144 has not been sealed or expunged for, any offense prohibited
145 under any of the following provisions of state law or a similar

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146 law of another jurisdiction:

147 1. A felony offense prohibited under any of the following
148 statutes:

149 a. Chapter 741, relating to domestic violence.

150 b. Section 782.04, relating to murder.

151 c. Section 782.07, relating to manslaughter, aggravated
152 manslaughter of an elderly person or disabled adult, aggravated
153 manslaughter of a child, or aggravated manslaughter of an
154 officer, a firefighter, an emergency medical technician, or a
155 paramedic.

156 d. Section 784.021, relating to aggravated assault.

157 e. Section 784.045, relating to aggravated battery.

158 f. Section 787.01, relating to kidnapping.

159 g. Section 787.025, relating to luring or enticing a child.

160 h. Section 787.04(2), relating to leading, taking,
161 enticing, or removing a minor beyond the state limits, or
162 concealing the location of a minor, with criminal intent pending
163 custody proceedings.

164 i. Section 787.04(3), relating to leading, taking,
165 enticing, or removing a minor beyond the state limits, or
166 concealing the location of a minor, with criminal intent pending
167 dependency proceedings or proceedings concerning alleged abuse
168 or neglect of a minor.

169 j. Section 794.011, relating to sexual battery.

170 k. Former s. 794.041, relating to sexual activity with or
171 solicitation of a child by a person in familial or custodial
172 authority.

173 1. Section 794.05, relating to unlawful sexual activity
174 with certain minors.

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175 m. Section 794.08, relating to female genital mutilation.
176 n. Section 806.01, relating to arson.
177 o. Section 826.04, relating to incest.
178 p. Section 827.03, relating to child abuse, aggravated
179 child abuse, or neglect of a child.
180 q. Section 827.04, relating to contributing to the
181 delinquency or dependency of a child.
182 r. Section 827.071, relating to sexual performance by a
183 child.
184 s. Chapter 847, relating to child pornography.
185 t. Section 985.701, relating to sexual misconduct in
186 juvenile justice programs.

187 2. A misdemeanor offense prohibited under any of the
188 following statutes:

189 a. Section 784.03, relating to battery, if the victim of
190 the offense was a minor.
191 b. Section 787.025, relating to luring or enticing a child.
192 c. Chapter 847, relating to child pornography.

193 3. A criminal act committed in another state or under
194 federal law which, if committed in this state, constitutes an
195 offense prohibited under any statute listed in subparagraph 1.
196 or subparagraph 2.

197 Section 7. Paragraph (w) of subsection (2) of section
198 1002.82, Florida Statutes, is amended to read:

199 1002.82 Office of Early Learning; powers and duties.—
200 (2) The office shall:
201 (w) Establish staff-to-children ratios that do not exceed
202 the requirements of s. 402.302(9) or (12) ~~s. 402.302(8) or (11)~~
203 or s. 402.305(4), as applicable, for school readiness program

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204 providers.

205 Section 8. Paragraph (e) of subsection (1) of section
206 1002.88, Florida Statutes, is amended to read:

207 1002.88 School readiness program provider standards;
208 eligibility to deliver the school readiness program.—

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

211 (e) Employ child care personnel, as defined in s.
212 402.302(4) ~~s. 402.302(3)~~, who have satisfied the screening
213 requirements of chapter 402 and fulfilled the training
214 requirements of the office.

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