

By Senator Torres

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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 providing child care to school-age
5 children to be licensed as child care facilities;
6 amending s. 402.302, F.S.; providing and revising
7 definitions; amending s. 402.305, F.S.; removing a
8 requirement to adopt a definition by rule; conforming
9 a cross-reference; amending ss. 39.201, 402.317,
10 435.07, 1002.82, and 1002.88, F.S.; conforming cross-
11 references; providing an effective date.

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

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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 must be
33 licensed as child care facilities as required under this
34 chapter. Notwithstanding licensure status, all personnel as
35 defined in s. 402.302 of such membership organizations shall
36 meet background screening requirements through the department
37 pursuant to ss. 402.305 and 402.3055.

38 Section 2. Present subsections (1) through (14) and (15)
39 through (18) of section 402.302, Florida Statutes, are
40 renumbered as subsections (2) through (15) and (17) through
41 (20), respectively, present subsection (2) is amended, and new
42 subsections (1) and (16) are added to that section, to read:

43 402.302 Definitions.—As used in this chapter, the term:

44 (1) "After-school program" means child care for school-age
45 children during out-of-school times, including, but not limited
46 to, before school or after school, school breaks, and inservice
47 planning days.

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

52 1. Provides transportation to or from the facility where
53 the program is offered.

54 2. Provides meals or snacks to children participating in
55 the program.

56 3. Provides more than one type of activity, including, but
57 not limited to, educational, artistic, athletic, or self-
58 directed activities.

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59 4. Provides tutoring or homework assistance, or includes a
60 specific time for children to complete homework while at the
61 facility.

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

64 6. Takes children on field trips.

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

66 1. A program on a public or nonpublic school site that is
67 operated and staffed directly by the school or through a formal
68 agreement between the school and a provider to serve children
69 who attend that school. A lease for space or user agreement is
70 not considered a formal agreement.

71 2. A program that is solely instructional or tutorial.

72 3. An open-access program that allows children to come and
73 go at will. An open-access program may not:

74 a. Serve children for more than 4 hours per regular school
75 day.

76 b. Advertise or otherwise hold itself out as providing
77 child care or after-school care, being an after-school program,
78 or offering supervision.

79 c. Provide supervision.

80 d. Provide transportation, directly or indirectly.

81 e. Provide meals or snacks outside of the federal

82 Afterschool Meal Program.

83 f. Deliver a school readiness program pursuant to s.

84 1002.88.

85 4. A program that does not hold a Gold Seal Quality Care
86 designation under s. 402.281 that provides child care
87 exclusively for children in grades 6 through 12.

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88 (3)~~(2)~~ "Child care facility" includes any child care
89 center, after-school program, or child care arrangement which
90 provides child care for more than five children unrelated to the
91 operator and which receives a payment, fee, or grant for any of
92 the children receiving care, wherever operated, and whether or
93 not operated for profit. The following are not included:

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

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

98 (c) Summer day camps;

99 (d) Bible schools normally conducted during vacation
100 periods; and

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

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

110 Section 3. Paragraph (c) of subsection (1) and paragraph
111 (a) of subsection (2) of section 402.305, Florida Statutes, are
112 amended to read:

113 402.305 Licensing standards; child care facilities.—

114 (1) LICENSING STANDARDS.—The department shall establish
115 licensing standards that each licensed child care facility must
116 meet regardless of the origin or source of the fees used to

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117 operate the facility or the type of children served by the
118 facility.

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

122 1. The department, in adopting rules to establish minimum
123 standards for child care facilities, shall recognize that
124 different age groups of children may require different
125 standards. The department may adopt different minimum standards
126 for facilities that serve children in different age groups,
127 including school-age children. ~~The department shall also adopt~~
128 ~~by rule a definition for child care which distinguishes between~~
129 ~~child care programs that require child care licensure and after-~~
130 ~~school programs that do not require licensure.~~

131 2. Notwithstanding any other ~~provision of~~ law to the
132 contrary, minimum child care licensing standards shall be
133 developed to provide for reasonable, affordable, and safe
134 before-school and after-school care.

135 3. ~~After-school~~ Programs that otherwise meet the criteria
136 for exclusion from child care licensure as an after-school
137 program may provide snacks and meals through the federal
138 Afterschool Meal Program (AMP) administered by the Department of
139 Health in accordance with federal regulations and standards. The
140 Department of Health shall consider meals to be provided through
141 the AMP only if the program is actively participating in the
142 AMP, is in good standing with the department, and the meals meet
143 AMP requirements.

144 4. Standards, at a minimum, shall allow for a credentialed
145 director to supervise multiple ~~before-school and~~ after-school

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146 program sites.

147 (2) PERSONNEL.—Minimum standards for child care personnel
148 shall include minimum requirements as to:

149 (a) Good moral character based upon screening as defined in
150 s. 402.302 ~~s. 402.302(15)~~. This screening shall be conducted as
151 provided in chapter 435, using the level 2 standards for
152 screening set forth in that chapter, and include employment
153 history checks, a search of criminal history records, sexual
154 predator and sexual offender registries, and child abuse and
155 neglect registry of any state in which the current or
156 prospective child care personnel resided during the preceding 5
157 years.

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

160 39.201 Mandatory reports of child abuse, abandonment, or
161 neglect; mandatory reports of death; central abuse hotline.—

162 (6) Information in the central abuse hotline may not be
163 used for employment screening, except as provided in s.
164 39.202(2) (a) and (h) or s. 402.302 ~~s. 402.302(15)~~. Information
165 in the central abuse hotline and the department's automated
166 abuse information system may be used by the department, its
167 authorized agents or contract providers, the Department of
168 Health, or county agencies as part of the licensure or
169 registration process pursuant to ss. 402.301-402.319 and ss.
170 409.175-409.176. Pursuant to s. 39.202(2) (q), the information in
171 the central abuse hotline may also be used by the Department of
172 Education for purposes of educator certification discipline and
173 review.

174 Section 5. Section 402.317, Florida Statutes, is amended to

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175 read:

176 402.317 Prolonged child care.—Notwithstanding the time
177 restriction specified in s. 402.302 ~~s. 402.302(1)~~, child care
178 may be provided for 24 hours or longer for a child whose parent
179 or legal guardian works a shift of 24 hours or more. The
180 requirement that a parent or legal guardian work a shift of 24
181 hours or more must be certified in writing by the employer, and
182 the written certification shall be maintained in the facility by
183 the child care provider and made available to the licensing
184 agency. The time that a child remains in child care, however,
185 may not exceed 72 consecutive hours in any 7-day period. During
186 a declared state of emergency, the child care licensing agency
187 may temporarily waive the time limitations provided in this
188 section.

189 Section 6. Paragraph (c) of subsection (4) of section
190 435.07, Florida Statutes, is amended to read:

191 435.07 Exemptions from disqualification.—Unless otherwise
192 provided by law, the provisions of this section apply to
193 exemptions from disqualification for disqualifying offenses
194 revealed pursuant to background screenings required under this
195 chapter, regardless of whether those disqualifying offenses are
196 listed in this chapter or other laws.

197 (4)

198 (c) Disqualification from employment under this chapter may
199 not be removed from, and an exemption may not be granted to, any
200 current or prospective child care personnel, as defined in s.
201 402.302 ~~s. 402.302(3)~~, and such a person is disqualified from
202 employment as child care personnel, regardless of any previous
203 exemptions from disqualification, if the person has been

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204 registered as a sex offender as described in 42 U.S.C. s.
205 9858f(c)(1)(C) or has been arrested for and is awaiting final
206 disposition of, has been convicted or found guilty of, or
207 entered a plea of guilty or nolo contendere to, regardless of
208 adjudication, or has been adjudicated delinquent and the record
209 has not been sealed or expunged for, any offense prohibited
210 under any of the following provisions of state law or a similar
211 law of another jurisdiction:

212 1. A felony offense prohibited under any of the following
213 statutes:

214 a. Chapter 741, relating to domestic violence.

215 b. Section 782.04, relating to murder.

216 c. Section 782.07, relating to manslaughter, aggravated
217 manslaughter of an elderly person or disabled adult, aggravated
218 manslaughter of a child, or aggravated manslaughter of an
219 officer, a firefighter, an emergency medical technician, or a
220 paramedic.

221 d. Section 784.021, relating to aggravated assault.

222 e. Section 784.045, relating to aggravated battery.

223 f. Section 787.01, relating to kidnapping.

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

225 h. Section 787.04(2), relating to leading, taking,
226 enticing, or removing a minor beyond the state limits, or
227 concealing the location of a minor, with criminal intent pending
228 custody proceedings.

229 i. Section 787.04(3), relating to leading, taking,
230 enticing, or removing a minor beyond the state limits, or
231 concealing the location of a minor, with criminal intent pending
232 dependency proceedings or proceedings concerning alleged abuse

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- 233 or neglect of a minor.
- 234 j. Section 794.011, relating to sexual battery.
- 235 k. Former s. 794.041, relating to sexual activity with or
236 solicitation of a child by a person in familial or custodial
237 authority.
- 238 l. Section 794.05, relating to unlawful sexual activity
239 with certain minors.
- 240 m. Section 794.08, relating to female genital mutilation.
- 241 n. Section 806.01, relating to arson.
- 242 o. Section 826.04, relating to incest.
- 243 p. Section 827.03, relating to child abuse, aggravated
244 child abuse, or neglect of a child.
- 245 q. Section 827.04, relating to contributing to the
246 delinquency or dependency of a child.
- 247 r. Section 827.071, relating to sexual performance by a
248 child.
- 249 s. Chapter 847, relating to child pornography.
- 250 t. Chapter 893, relating to a drug abuse prevention and
251 control offense, if that offense was committed in the preceding
252 5 years.
- 253 u. Section 985.701, relating to sexual misconduct in
254 juvenile justice programs.
- 255 2. A misdemeanor offense prohibited under any of the
256 following statutes:
- 257 a. Section 784.03, relating to battery, if the victim of
258 the offense was a minor.
- 259 b. Section 787.025, relating to luring or enticing a child.
- 260 c. Chapter 847, relating to child pornography.
- 261 3. A criminal act committed in another state or under

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262 federal law which, if committed in this state, constitutes an
263 offense prohibited under any statute listed in subparagraph 1.
264 or subparagraph 2.

265 Section 7. Paragraph (y) of subsection (2) of section
266 1002.82, Florida Statutes, is amended to read:

267 1002.82 Office of Early Learning; powers and duties.—

268 (2) The office shall:

269 (y) Establish staff-to-children ratios that do not exceed
270 the requirements of s. 402.302 ~~s. 402.302(8) or (11)~~ or s.
271 402.305(4), as applicable, for school readiness program
272 providers.

273 Section 8. Paragraph (e) of subsection (1) of section
274 1002.88, Florida Statutes, is amended to read:

275 1002.88 School readiness program provider standards;
276 eligibility to deliver the school readiness program.—

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

279 (e) Employ child care personnel, as defined in s. 402.302
280 ~~s. 402.302(3)~~, who have satisfied the screening requirements of
281 chapter 402 and fulfilled the training requirements of the
282 office.

283 Section 9. This act shall take effect July 1, 2019.