

By the Committees on Governmental Oversight and Accountability; and Children, Families, and Elder Affairs; and Senators Book and Torres

585-03003-20

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1 A bill to be entitled
2 An act relating to recreation programs; amending s.
3 402.302, F.S.; revising the definition of the term
4 "child care facility" to exclude government-sponsored
5 recreation programs; defining terms; creating s.
6 402.3132, F.S.; providing that certain requirements
7 imposed on child care facilities do not apply to
8 summer day camps and summer 24-hour camps, with an
9 exception; requiring such camps to meet any minimum
10 local requirements imposed which relate to health,
11 sanitation, and safety and specified screening
12 requirements; authorizing the Department of Children
13 and Families or the local licensing agency, as
14 applicable, to commence certain actions and
15 proceedings for specified purposes; requiring summer
16 day camps and summer 24-hour camps to register with
17 the department and be included in a specified listing
18 in order to be recognized as complying; amending s.
19 775.21, F.S.; defining the term "government-sponsored
20 recreation program"; including government-sponsored
21 recreation programs in the notification and penalty
22 provisions of the Florida Sexual Predators Act;
23 amending s. 775.215, F.S.; defining the term
24 "government-sponsored recreation program"; prohibiting
25 persons convicted of certain sex offenses from
26 residing within a specified distance of government-
27 sponsored recreation programs; providing an exception;
28 expanding penalty provisions to conform to changes
29 made by the act; amending s. 893.13, F.S.; prohibiting

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30 persons from selling, manufacturing, or delivering a
31 controlled substance within a specified distance of
32 government-sponsored recreation programs; expanding
33 penalty provisions to conform to changes made by the
34 act; providing an exception; amending ss. 39.201,
35 402.305, and 1002.82, F.S.; conforming cross-
36 references; providing an effective date.

37
38 Be It Enacted by the Legislature of the State of Florida:

39
40 Section 1. Present subsections (9) through (17) and (18) of
41 section 402.302, Florida Statutes, are redesignated as
42 subsections (10) through (18) and (21), respectively, a new
43 subsection (9) and subsections (19) and (20) are added to that
44 section, and subsection (2) of that section is amended, to read:

45 402.302 Definitions.—As used in this chapter, the term:

46 (2) "Child care facility" includes any child care center or
47 child care arrangement that ~~which~~ provides child care for more
48 than five children unrelated to the operator and that ~~which~~
49 receives a payment, fee, or grant for any of the children
50 receiving care, wherever operated, and whether or not operated
51 for profit. The following are not included:

52 (a) Public schools and nonpublic schools and their integral
53 programs, except as provided in s. 402.3025;

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

55 (c) Summer day camps;

56 (d) Bible schools normally conducted during vacation
57 periods; ~~and~~

58 (e) Operators of transient establishments, as defined in

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59 chapter 509, which provide child care services solely for the
60 guests of their establishment or resort, provided that all child
61 care personnel of the establishment are screened according to
62 the level 2 screening requirements of chapter 435; and

63 (f) Government-sponsored recreation programs.

64 (9) "Government-sponsored recreation program" means an
65 afterschool recreation program for school-age children which has
66 organized, regularly scheduled activities, including educational
67 or enrichment activities, and which meets all of the following
68 requirements:

69 (a) Offers not more than 4 hours of programming per day.
70 However, the program may extend its hours in order to provide
71 services before school and on teacher planning days, holidays,
72 and intersessions that occur during the school district's
73 official calendar year.

74 (b) Is operated by a county, a municipality, or a school
75 district that has adopted by ordinance or policy standards of
76 care for the program which include, but are not limited to:

77 1. Meeting minimum staff-to-children ratios in accordance
78 with s. 402.305(4) and rules adopted by the department
79 thereunder;

80 2. Ensuring that all personnel meet the requirements of
81 this section and ss. 402.305 and 402.3055;

82 3. Meeting minimum facility, health, and safety standards,
83 including annual fire inspections conducted by the city or
84 county fire marshal;

85 4. Ensuring annual health inspections are conducted by the
86 Department of Health;

87 5. Conducting regular inspection, cleaning, repair, and

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88 maintenance of buildings, grounds, and equipment;

89 6. Ensuring that at least one staff person trained in
90 cardiopulmonary resuscitation is present at all times when
91 children are present;

92 7. Setting standards related to the provision of food;

93 8. Training program employees regarding working with
94 school-age children;

95 9. Engaging in activities designed to address the ages,
96 interests, and abilities of participants;

97 10. Carrying out annual inspections of vehicles that are
98 used to transport children;

99 11. Enforcing regulations related to the number of children
100 that may be transported in vehicles in accordance with vehicle
101 capacity and searching vehicles after use to ensure that no
102 children are left in the vehicle;

103 12. Ensuring that custodial parents or guardians have
104 reasonable access to children while the children are in care;
105 and

106 13. Developing age-appropriate policies relating to child
107 discipline practices and making such policies available to
108 parents or guardians at the time of registration.

109 (c) Has been certified by the county, municipality, or
110 school district as compliant with such standards of care and
111 provides annual attestation to the department of compliance with
112 such standards of care.

113 (d) Provides notice to the parent or guardian of each child
114 participating in the program that the program is not state-
115 licensed or advertised as a child care facility and provides the
116 parent or guardian with the county's, municipality's, or school

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117 district's standards of care.

118 (e) Does not receive funding through the federal Child Care
119 and Development Block Grant Act of 2014, does not contract to
120 provide a school readiness program pursuant to s. 1002.88, and
121 does not have a Gold Seal Quality Care designation under s.
122 402.281.

123 (19) "Summer day camp" has the same meaning as provided in
124 s. 409.175.

125 (20) "Summer 24-hour camp" has the same meaning as provided
126 in s. 409.175.

127 Section 2. Section 402.3132, Florida Statutes, is created
128 to read:

129 402.3132 Summer day camps and summer 24-hour camps.—

130 (1) Except for the requirements regarding screening of
131 child care personnel, ss. 402.301-402.319 do not apply to a
132 summer day camp or summer 24-hour camp. However, a summer day
133 camp or summer 24-hour camp must meet any minimum requirements
134 imposed by a local governing body which are applicable to
135 health, sanitation, and safety and must meet the screening
136 requirements established under ss. 402.305 and 402.3055. A
137 summer day camp's or a summer 24-hour camp's failure to comply
138 with such screening requirements shall result in the loss of the
139 summer day camp's or summer 24-hour camp's ability to operate.

140 (2) The department or local licensing agency may commence
141 and maintain all proper and necessary actions and proceedings
142 for any of the following purposes:

143 (a) To protect the health, sanitation, safety, and well-
144 being of all children under its care.

145 (b) To enforce its rules and regulations.

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146 (c) To make application for injunction to the proper
147 circuit court. The judge of that court has jurisdiction, upon
148 hearing and for cause shown, to grant a temporary or permanent
149 injunction, or both, restraining any person or entity from
150 violating or continuing to violate any of the child care
151 personnel screening provisions of ss. 402.305-402.3055.

152 (d) To impose an administrative fine, not to exceed \$100
153 per violation, per day, for each violation of the child care
154 personnel screening provisions under ss. 402.305-402.3055.

155 (3) All summer day camps or 24-hour summer camps shall
156 register with the department and must be included in the
157 department's summer camp listing in order to be recognized as
158 meeting the provisions of this section.

159 Section 3. Present paragraphs (i) through (p) of subsection
160 (2) of section 775.21, Florida Statutes, are redesignated as
161 paragraphs (j) through (q), respectively, a new paragraph (i) is
162 added to that subsection, and paragraph (a) of subsection (7)
163 and paragraph (b) of subsection (10) of that section are
164 amended, to read:

165 775.21 The Florida Sexual Predators Act.—

166 (2) DEFINITIONS.—As used in this section, the term:

167 (i) "Government-sponsored recreation program" has the same
168 meaning as provided in s. 402.302.

169 (7) COMMUNITY AND PUBLIC NOTIFICATION.—

170 (a) Law enforcement agencies must inform members of the
171 community and the public of a sexual predator's presence. Upon
172 notification of the presence of a sexual predator, the sheriff
173 of the county or the chief of police of the municipality where
174 the sexual predator establishes or maintains a permanent or

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175 temporary residence shall notify members of the community and
176 the public of the presence of the sexual predator in a manner
177 deemed appropriate by the sheriff or the chief of police. Within
178 48 hours after receiving notification of the presence of a
179 sexual predator, the sheriff of the county or the chief of
180 police of the municipality where the sexual predator temporarily
181 or permanently resides shall notify each licensed child care
182 facility, government-sponsored recreation program, elementary
183 school, middle school, and high school within a 1-mile radius of
184 the temporary or permanent residence of the sexual predator of
185 the presence of the sexual predator. Information provided to
186 members of the community and the public regarding a sexual
187 predator must include:

- 188 1. The name of the sexual predator;
- 189 2. A description of the sexual predator, including a
190 photograph;
- 191 3. The sexual predator's current permanent, temporary, and
192 transient addresses, and descriptions of registered locations
193 that have no specific street address, including the name of the
194 county or municipality if known;
- 195 4. The circumstances of the sexual predator's offense or
196 offenses; and
- 197 5. Whether the victim of the sexual predator's offense or
198 offenses was, at the time of the offense, a minor or an adult.

199
200 This paragraph does not authorize the release of the name of any
201 victim of the sexual predator.

202 (10) PENALTIES.—

203 (b) A sexual predator who has been convicted of or found to

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204 have committed, or has pled nolo contendere or guilty to,
205 regardless of adjudication, any violation, or attempted
206 violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where
207 the victim is a minor; s. 794.011, excluding s. 794.011(10); s.
208 794.05; former s. 796.03; former s. 796.035; s. 800.04; s.
209 827.071; s. 847.0133; s. 847.0135(5); s. 847.0145; or s.
210 985.701(1); or a violation of a similar law of another
211 jurisdiction when the victim of the offense was a minor, and who
212 works, whether for compensation or as a volunteer, at any
213 business, school, child care facility, government-sponsored
214 recreation program, park, playground, or other place where
215 children regularly congregate, commits a felony of the third
216 degree, punishable as provided in s. 775.082, s. 775.083, or s.
217 775.084.

218 Section 4. Present paragraphs (b), (c), and (d) of
219 subsection (1) of section 775.215, Florida Statutes, are
220 redesignated as paragraphs (c), (d), and (e), respectively, a
221 new paragraph (b) is added to that subsection, and paragraph (a)
222 of subsection (2) and paragraph (a) of subsection (3) of that
223 section are amended, to read:

224 775.215 Residency restriction for persons convicted of
225 certain sex offenses.—

226 (1) As used in this section, the term:

227 (b) “Government-sponsored recreation program” has the same
228 meaning as provided in s. 402.302.

229 (2) (a) A person who has been convicted of a violation of s.
230 794.011, s. 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145,
231 regardless of whether adjudication has been withheld, in which
232 the victim of the offense was less than 16 years of age, may not

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233 reside within 1,000 feet of any school, child care facility,
234 government-sponsored recreation program, park, or playground.
235 However, a person does not violate this subsection and may not
236 be forced to relocate if he or she is living in a residence that
237 meets the requirements of this subsection and a school, child
238 care facility, government-sponsored recreation program, park, or
239 playground is subsequently established within 1,000 feet of his
240 or her residence.

241 (3) (a) A person who has been convicted of an offense in
242 another jurisdiction that is similar to a violation of s.
243 794.011, s. 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145,
244 regardless of whether adjudication has been withheld, in which
245 the victim of the offense was less than 16 years of age, may not
246 reside within 1,000 feet of any school, child care facility,
247 government-sponsored recreation program, park, or playground.
248 However, a person does not violate this subsection and may not
249 be forced to relocate if he or she is living in a residence that
250 meets the requirements of this subsection and a school, child
251 care facility, government-sponsored recreation program, park, or
252 playground is subsequently established within 1,000 feet of his
253 or her residence.

254 Section 5. Paragraph (c) of subsection (1) of section
255 893.13, Florida Statutes, is amended to read:

256 893.13 Prohibited acts; penalties.—

257 (1)

258 (c) Except as authorized by this chapter, a person may not
259 sell, manufacture, or deliver, or possess with intent to sell,
260 manufacture, or deliver, a controlled substance in, on, or
261 within 1,000 feet of the real property comprising a child care

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262 facility or comprising a government-sponsored recreation
263 program, as those terms are defined in s. 402.302, or a public
264 or private elementary, middle, or secondary school between the
265 hours of 6 a.m. and 12 midnight, or at any time in, on, or
266 within 1,000 feet of real property comprising a state, county,
267 or municipal park, a community center, or a publicly owned
268 recreational facility. As used in this paragraph, the term
269 "community center" means a facility operated by a nonprofit
270 community-based organization for the provision of recreational,
271 social, or educational services to the public. A person who
272 violates this paragraph with respect to:

273 1. A controlled substance named or described in s.
274 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5.
275 commits a felony of the first degree, punishable as provided in
276 s. 775.082, s. 775.083, or s. 775.084. The defendant must be
277 sentenced to a minimum term of imprisonment of 3 calendar years
278 unless the offense was committed within 1,000 feet of the real
279 property comprising a child care facility or comprising a
280 government-sponsored recreation program, as those terms are
281 defined in s. 402.302.

282 2. A controlled substance named or described in s.
283 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7.,
284 (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) commits a felony of
285 the second degree, punishable as provided in s. 775.082, s.
286 775.083, or s. 775.084.

287 3. Any other controlled substance, except as lawfully sold,
288 manufactured, or delivered, must be sentenced to pay a \$500 fine
289 and to serve 100 hours of public service in addition to any
290 other penalty prescribed by law.

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292 This paragraph does not apply to a child care facility or a
293 government-sponsored recreation program as those terms are
294 defined in s. 402.302 unless the owner or operator of the
295 facility or program posts a sign that is not less than 2 square
296 feet in size with a word legend identifying the facility as a
297 licensed child care facility or a government-sponsored
298 recreation program and that is posted on the property of the
299 child care facility or on the property of the government-
300 sponsored recreation program, as applicable, in a conspicuous
301 place where the sign is reasonably visible to the public.

302 Section 6. Subsection (6) of section 39.201, Florida
303 Statutes, is amended to read:

304 39.201 Mandatory reports of child abuse, abandonment, or
305 neglect; mandatory reports of death; central abuse hotline.—

306 (6) Information in the central abuse hotline may not be
307 used for employment screening, except as provided in s.
308 39.202(2) (a) and (h) or s. 402.302(16) ~~s. 402.302(15)~~.
309 Information in the central abuse hotline and the department's
310 automated abuse information system may be used by the
311 department, its authorized agents or contract providers, the
312 Department of Health, or county agencies as part of the
313 licensure or registration process pursuant to ss. 402.301-
314 402.319 and ss. 409.175-409.176. Pursuant to s. 39.202(2) (q),
315 the information in the central abuse hotline may also be used by
316 the Department of Education for purposes of educator
317 certification discipline and review.

318 Section 7. Paragraph (a) of subsection (2) of section
319 402.305, Florida Statutes, is amended to read:

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320 402.305 Licensing standards; child care facilities.-

321 (2) PERSONNEL.-Minimum standards for child care personnel
322 shall include minimum requirements as to:

323 (a) Good moral character based upon screening as defined in
324 s. 402.302(16) ~~s. 402.302(15)~~. This screening shall be conducted
325 as provided in chapter 435, using the level 2 standards for
326 screening set forth in that chapter, and include employment
327 history checks, and a search of criminal history records, sexual
328 predator and sexual offender registries, and child abuse and
329 neglect registries ~~registry~~ of any state in which the current or
330 prospective child care personnel resided during the preceding 5
331 years.

332 Section 8. Paragraph (y) of subsection (2) of section
333 1002.82, Florida Statutes, is amended to read:

334 1002.82 Office of Early Learning; powers and duties.-

335 (2) The office shall:

336 (y) Establish staff-to-children ratios that do not exceed
337 the requirements of s. 402.302(8) or (12) ~~s. 402.302(8) or (11)~~
338 or s. 402.305(4), as applicable, for school readiness program
339 providers.

340 Section 9. This act shall take effect July 1, 2020.