

By Senator Rodriguez

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1                                   A bill to be entitled  
2       An act relating to neighborhood pod learning programs;  
3       providing a short title; amending s. 1002.01, F.S.;  
4       defining the term "neighborhood pod learning program";  
5       creating s. 1002.46, F.S.; authorizing the parents of  
6       children from at least two unrelated families to  
7       establish and operate a neighborhood pod learning  
8       program; defining terms; requiring parents who  
9       establish a program to notify district school  
10      superintendents; specifying the requirements of such  
11      notice; clarifying that such programs are not school  
12      district programs; providing that a parent  
13      participating in operating a program is not required  
14      to hold a Florida teaching certificate; requiring  
15      school district superintendents to accept notices and  
16      register programs; prohibiting a district from  
17      requiring additional information or verification from  
18      a program parent unless a program student chooses to  
19      participate in a school district program or service;  
20      prohibiting a school district superintendent from  
21      assigning a grade level to a program student or  
22      include other specified information in a database  
23      unless the student chooses to participate in a school  
24      district program or service; requiring program parents  
25      to file a written notice of termination upon  
26      completion of the program; providing construction;  
27      requiring an agency or political subdivision of the  
28      state to demonstrate clear and convincing evidence  
29      that any enforcement action would not interfere in

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30 specified manners with operating a program; providing  
31 that such programs are a permitted use in all  
32 residential zones; providing that a program does not  
33 violate the Florida Fire Prevention Code under certain  
34 circumstances; clarifying that a program is not a  
35 child care facility, family day care home, or large  
36 family child care home; prohibiting discrimination  
37 against a parent or student for participation in a  
38 program; providing that a program does not increase  
39 the regulatory authority of the state; providing for  
40 severability; amending ss. 1002.395 and 1002.421,  
41 F.S.; conforming cross-references; providing an  
42 effective date.

43  
44 WHEREAS, the effects of COVID-19 have made it clear that  
45 traditional educational institutions are subject to unique  
46 concerns when faced with a pandemic, and

47 WHEREAS, evidence suggests that remote and purely virtual  
48 learning options are not the appropriate solutions for all  
49 students, and

50 WHEREAS, in response to COVID-19, some parents have created  
51 "learning pods" in which multiple families pool resources to  
52 hire independent educators, and

53 WHEREAS, this phenomenon is largely decentralized,  
54 typically involving small groups of parents pooling resources to  
55 benefit their children's education, and

56 WHEREAS, learning pods that have been formed primarily as a  
57 response to the pandemic have seen early indicators of success,  
58 and

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59 WHEREAS, regulatory barriers limit the potentially positive  
60 effects of learning pods, as existing regulations are poorly  
61 suited to allow learning pods to exist in a safe and regulated  
62 manner, and

63 WHEREAS, in order to ensure the continuity of children's  
64 education and encourage parents and teachers to take advantage  
65 of potentially beneficial alternative education arrangements,  
66 and to ensure the uniform regulation of learning pods in this  
67 state, NOW, THEREFORE,

68

69 Be It Enacted by the Legislature of the State of Florida:

70

71 Section 1. This act may be cited as the "Neighborhood Pod  
72 Learning Act."

73 Section 2. Present subsection (2) of section 1002.01,  
74 Florida Statutes, is redesignated as subsection (3), and a new  
75 subsection (2) is added to that section, to read:

76 1002.01 Definitions.—

77 (2) A "neighborhood pod learning program" is a voluntary  
78 association of parents without corporate status which provides  
79 for the sequentially progressive instruction of the parents'  
80 children to satisfy the attendance requirements of ss. 1002.46,  
81 1003.01(13), and 1003.21(1).

82 Section 3. Section 1002.46, Florida Statutes, is created to  
83 read:

84 1002.46 Neighborhood pod learning programs.—

85 (1) The parents of children from at least two families not  
86 related by blood, marriage, or legal adoption may associate  
87 together to establish and operate a neighborhood pod learning

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88 program.

89 (2) As used in this section, the term:

90 (a) "Neighborhood pod learning program" or "program" has  
91 the same meaning as in s. 1002.01.

92 (b) "Operating a neighborhood pod learning program" or  
93 "operating a program" means any actions taken by any program  
94 parent or individual assisting a program parent to organize,  
95 facilitate, or operate the program in any facility, home, or  
96 other structure used by the program.

97 (c) "Parent" means a resident of this state who is a parent  
98 as defined in s. 1000.21(5).

99 (3) (a) Any parents who associate together to establish and  
100 operate a program shall notify the district school  
101 superintendent of the county in which the parents reside of  
102 their intent to establish and operate such program. The notice  
103 must be in writing, be signed by each parent in the program, and  
104 include the full legal names, addresses, and birthdates of all  
105 children who will be enrolled as students in the program. The  
106 notice must be filed in the district school superintendent's  
107 office within 30 days after the establishment of the program.

108 (b) A neighborhood pod learning program is not a school  
109 district program and is registered with the district school  
110 superintendent only for the purpose of complying with the  
111 state's attendance requirements under s. 1003.21(1). A parent  
112 participating in operating a program is not required to hold a  
113 Florida teaching certificate.

114 (c) The district school superintendent shall accept the  
115 notice and immediately register the program upon its receipt.  
116 The district may not require any additional information or

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117 verification from a program parent unless his or her student  
118 chooses to participate in a school district program or service.  
119 The district school superintendent may not assign a grade level  
120 to a program student or include a social security number or any  
121 other personal information of the student in any school district  
122 or state database unless the student chooses to participate in a  
123 school district program or service.

124 (d) The parents operating a program shall file a written  
125 notice of termination upon completion of the program with the  
126 district school superintendent.

127 (4) (a) A neighborhood pod learning program shall be  
128 construed by an agency or political subdivision of the state to  
129 be a home education program under s. 1002.41, including for the  
130 purposes of satisfying the school attendance requirements of ss.  
131 1003.01(13) and 1003.21(1), so long as the neighborhood pod  
132 learning program complies with the requirements of subsection  
133 (3) and the requirements of a home education program under s.  
134 1002.41(1)(d)-(f).

135 (b) An agency or political subdivision of the state must  
136 demonstrate by clear and convincing evidence that any  
137 enforcement action that would directly or indirectly interfere  
138 with operating a program:

139 1. Does not unduly impede the freedom of parents and  
140 guardians to provide for the care, supervision, and education of  
141 their children;

142 2. Does not single out program activities while similar  
143 gatherings of children for recreational or social activities  
144 remain unregulated;

145 3. Is narrowly tailored to protect the public health and

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146 safety; and

147 4. Does not otherwise conflict with the requirements of  
148 this section.

149 (5) (a) Operating a neighborhood pod learning program is a  
150 residential use of property for the purposes of zoning and a  
151 permitted use in all residential zones and is not subject to a  
152 special use or conditional use permit or a procedure different  
153 from those required for other similar dwellings in the same  
154 area. A program does not violate the Florida Fire Prevention  
155 Code so long as the building being used to operate a program  
156 would satisfy the requirements of the Florida Fire Prevention  
157 Code in light of the purpose for which the building was  
158 originally intended.

159 (b) A program is not a child care facility, family day care  
160 home, or large family child care home as defined in s. 403.302.  
161 This section does not alter any of the requirements of a  
162 licensed child care facility, family day care home, or large  
163 family child care home.

164 (6) A parent or student may not be penalized or  
165 discriminated against by an agency or political subdivision of  
166 the state for the parent's or student's participation in a  
167 program.

168 (7) This section does not expand the regulatory authority  
169 of this state, its officers, or any school district to impose  
170 additional regulation on home education students.

171 Section 4. Paragraph (g) of subsection (2) of section  
172 1002.395, Florida Statutes, is amended to read:

173 1002.395 Florida Tax Credit Scholarship Program.—

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

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175 (g) "Eligible private school" means a private school, as  
176 defined in s. 1002.01(3) ~~s. 1002.01(2)~~, located in Florida which  
177 offers an education to students in any grades K-12 and that  
178 meets the requirements in subsection (8).

179 Section 5. Subsection (1) of section 1002.421, Florida  
180 Statutes, is amended to read:

181 1002.421 State school choice scholarship program  
182 accountability and oversight.—

183 (1) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—A private  
184 school participating in an educational scholarship program  
185 established pursuant to this chapter must be a private school as  
186 defined in s. 1002.01(3) ~~s. 1002.01(2)~~ in this state, be  
187 registered, and be in compliance with all requirements of this  
188 section in addition to private school requirements outlined in  
189 s. 1002.42, specific requirements identified within respective  
190 scholarship program laws, and other provisions of Florida law  
191 that apply to private schools, and must:

192 (a) Comply with the antidiscrimination provisions of 42  
193 U.S.C. s. 2000d.

194 (b) Notify the department of its intent to participate in a  
195 scholarship program.

196 (c) Notify the department of any change in the school's  
197 name, school director, mailing address, or physical location  
198 within 15 days after the change.

199 (d) Provide to the department or scholarship-funding  
200 organization all documentation required for a student's  
201 participation, including the private school's and student's  
202 individual fee schedule, and attendance verification as required  
203 by the department or scholarship-funding organization, prior to

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204 scholarship payment.

205 (e) Annually complete and submit to the department a  
206 notarized scholarship compliance statement certifying that all  
207 school employees and contracted personnel with direct student  
208 contact have undergone background screening pursuant to s.  
209 943.0542 and have met the screening standards as provided in s.  
210 435.04.

211 (f) Demonstrate fiscal soundness and accountability by:

212 1. Being in operation for at least 3 school years or  
213 obtaining a surety bond or letter of credit for the amount equal  
214 to the scholarship funds for any quarter and filing the surety  
215 bond or letter of credit with the department.

216 2. Requiring the parent of each scholarship student to  
217 personally restrictively endorse the scholarship warrant to the  
218 school or to approve a funds transfer before any funds are  
219 deposited for a student. The school may not act as attorney in  
220 fact for the parent of a scholarship student under the authority  
221 of a power of attorney executed by such parent, or under any  
222 other authority, to endorse a scholarship warrant or approve a  
223 funds transfer on behalf of such parent.

224 (g) Meet applicable state and local health, safety, and  
225 welfare laws, codes, and rules, including:

226 1. Firesafety.

227 2. Building safety.

228 (h) Employ or contract with teachers who hold baccalaureate  
229 or higher degrees, have at least 3 years of teaching experience  
230 in public or private schools, or have special skills, knowledge,  
231 or expertise that qualifies them to provide instruction in  
232 subjects taught.



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233 (i) Maintain a physical location in the state at which each  
234 student has regular and direct contact with teachers.

235 (j) Publish on the school's website, or provide in a  
236 written format, information for parents regarding the school,  
237 including, but not limited to, programs, services, and the  
238 qualifications of classroom teachers.

239 (k) At a minimum, provide the parent of each scholarship  
240 student with a written explanation of the student's progress on  
241 a quarterly basis.

242 (l) Cooperate with a student whose parent chooses to  
243 participate in the statewide assessments pursuant to s. 1008.22.

244 (m) Require each employee and contracted personnel with  
245 direct student contact, upon employment or engagement to provide  
246 services, to undergo a state and national background screening,  
247 pursuant to s. 943.0542, by electronically filing with the  
248 Department of Law Enforcement a complete set of fingerprints  
249 taken by an authorized law enforcement agency or an employee of  
250 the private school, a school district, or a private company who  
251 is trained to take fingerprints and deny employment to or  
252 terminate an employee if he or she fails to meet the screening  
253 standards under s. 435.04. Results of the screening shall be  
254 provided to the participating private school. For purposes of  
255 this paragraph:

256 1. An "employee or contracted personnel with direct student  
257 contact" means any employee or contracted personnel who has  
258 unsupervised access to a scholarship student for whom the  
259 private school is responsible.

260 2. The costs of fingerprinting and the background check  
261 shall not be borne by the state.

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262 3. Continued employment of an employee or contracted  
263 personnel after notification that he or she has failed the  
264 background screening under this paragraph shall cause a private  
265 school to be ineligible for participation in a scholarship  
266 program.

267 4. An employee or contracted personnel holding a valid  
268 Florida teaching certificate who has been fingerprinted pursuant  
269 to s. 1012.32 is not required to comply with the provisions of  
270 this paragraph.

271 5. All fingerprints submitted to the Department of Law  
272 Enforcement as required by this section shall be retained by the  
273 Department of Law Enforcement in a manner provided by rule and  
274 entered in the statewide automated biometric identification  
275 system authorized by s. 943.05(2)(b). Such fingerprints shall  
276 thereafter be available for all purposes and uses authorized for  
277 arrest fingerprints entered in the statewide automated biometric  
278 identification system pursuant to s. 943.051.

279 6. The Department of Law Enforcement shall search all  
280 arrest fingerprints received under s. 943.051 against the  
281 fingerprints retained in the statewide automated biometric  
282 identification system under subparagraph 5. Any arrest record  
283 that is identified with the retained fingerprints of a person  
284 subject to the background screening under this section shall be  
285 reported to the employing school with which the person is  
286 affiliated. Each private school participating in a scholarship  
287 program is required to participate in this search process by  
288 informing the Department of Law Enforcement of any change in the  
289 employment or contractual status of its personnel whose  
290 fingerprints are retained under subparagraph 5. The Department

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291 of Law Enforcement shall adopt a rule setting the amount of the  
292 annual fee to be imposed upon each private school for performing  
293 these searches and establishing the procedures for the retention  
294 of private school employee and contracted personnel fingerprints  
295 and the dissemination of search results. The fee may be borne by  
296 the private school or the person fingerprinted.

297 7. Employees and contracted personnel whose fingerprints  
298 are not retained by the Department of Law Enforcement under  
299 subparagraphs 5. and 6. are required to be refingerprinted and  
300 must meet state and national background screening requirements  
301 upon reemployment or reengagement to provide services in order  
302 to comply with the requirements of this section.

303 8. Every 5 years following employment or engagement to  
304 provide services with a private school, employees or contracted  
305 personnel required to be screened under this section must meet  
306 screening standards under s. 435.04, at which time the private  
307 school shall request the Department of Law Enforcement to  
308 forward the fingerprints to the Federal Bureau of Investigation  
309 for national processing. If the fingerprints of employees or  
310 contracted personnel are not retained by the Department of Law  
311 Enforcement under subparagraph 5., employees and contracted  
312 personnel must electronically file a complete set of  
313 fingerprints with the Department of Law Enforcement. Upon  
314 submission of fingerprints for this purpose, the private school  
315 shall request that the Department of Law Enforcement forward the  
316 fingerprints to the Federal Bureau of Investigation for national  
317 processing, and the fingerprints shall be retained by the  
318 Department of Law Enforcement under subparagraph 5.

319 (n) Adopt policies establishing standards of ethical

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320 conduct for instructional personnel and school administrators.  
321 The policies must require all instructional personnel and school  
322 administrators, as defined in s. 1012.01, to complete training  
323 on the standards; establish the duty of instructional personnel  
324 and school administrators to report, and procedures for  
325 reporting, alleged misconduct by other instructional personnel  
326 and school administrators which affects the health, safety, or  
327 welfare of a student; and include an explanation of the  
328 liability protections provided under ss. 39.203 and 768.095. A  
329 private school, or any of its employees, may not enter into a  
330 confidentiality agreement regarding terminated or dismissed  
331 instructional personnel or school administrators, or personnel  
332 or administrators who resign in lieu of termination, based in  
333 whole or in part on misconduct that affects the health, safety,  
334 or welfare of a student, and may not provide the instructional  
335 personnel or school administrators with employment references or  
336 discuss the personnel's or administrators' performance with  
337 prospective employers in another educational setting, without  
338 disclosing the personnel's or administrators' misconduct. Any  
339 part of an agreement or contract that has the purpose or effect  
340 of concealing misconduct by instructional personnel or school  
341 administrators which affects the health, safety, or welfare of a  
342 student is void, is contrary to public policy, and may not be  
343 enforced.

344 (o) Before employing instructional personnel or school  
345 administrators in any position that requires direct contact with  
346 students, conduct employment history checks of each of the  
347 personnel's or administrators' previous employers, screen the  
348 personnel or administrators through use of the educator

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349 screening tools described in s. 1001.10(5), and document the  
350 findings. If unable to contact a previous employer, the private  
351 school must document efforts to contact the employer.

352 (p) Require each owner or operator of the private school,  
353 prior to employment or engagement to provide services, to  
354 undergo level 2 background screening as provided under chapter  
355 435. For purposes of this paragraph, the term "owner or  
356 operator" means an owner, operator, superintendent, or principal  
357 of, or a person with equivalent decisionmaking authority over, a  
358 private school participating in a scholarship program  
359 established pursuant to this chapter. The fingerprints for the  
360 background screening must be electronically submitted to the  
361 Department of Law Enforcement and may be taken by an authorized  
362 law enforcement agency or a private company who is trained to  
363 take fingerprints. However, the complete set of fingerprints of  
364 an owner or operator may not be taken by the owner or operator.  
365 The owner or operator shall provide a copy of the results of the  
366 state and national criminal history check to the Department of  
367 Education. The cost of the background screening may be borne by  
368 the owner or operator.

369 1. Every 5 years following employment or engagement to  
370 provide services, each owner or operator must meet level 2  
371 screening standards as described in s. 435.04, at which time the  
372 owner or operator shall request the Department of Law  
373 Enforcement to forward the fingerprints to the Federal Bureau of  
374 Investigation for level 2 screening. If the fingerprints of an  
375 owner or operator are not retained by the Department of Law  
376 Enforcement under subparagraph 2., the owner or operator must  
377 electronically file a complete set of fingerprints with the

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378 Department of Law Enforcement. Upon submission of fingerprints  
379 for this purpose, the owner or operator shall request that the  
380 Department of Law Enforcement forward the fingerprints to the  
381 Federal Bureau of Investigation for level 2 screening, and the  
382 fingerprints shall be retained by the Department of Law  
383 Enforcement under subparagraph 2.

384 2. Fingerprints submitted to the Department of Law  
385 Enforcement as required by this paragraph must be retained by  
386 the Department of Law Enforcement in a manner approved by rule  
387 and entered in the statewide automated biometric identification  
388 system authorized by s. 943.05(2)(b). The fingerprints must  
389 thereafter be available for all purposes and uses authorized for  
390 arrest fingerprints entered in the statewide automated biometric  
391 identification system pursuant to s. 943.051.

392 3. The Department of Law Enforcement shall search all  
393 arrest fingerprints received under s. 943.051 against the  
394 fingerprints retained in the statewide automated biometric  
395 identification system under subparagraph 2. Any arrest record  
396 that is identified with an owner's or operator's fingerprints  
397 must be reported to the owner or operator, who must report to  
398 the Department of Education. Any costs associated with the  
399 search shall be borne by the owner or operator.

400 4. An owner or operator who fails the level 2 background  
401 screening is not eligible to participate in a scholarship  
402 program under this chapter.

403 5. In addition to the offenses listed in s. 435.04, a  
404 person required to undergo background screening pursuant to this  
405 part or authorizing statutes may not have an arrest awaiting  
406 final disposition for, must not have been found guilty of, or

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407 entered a plea of nolo contendere to, regardless of  
408 adjudication, and must not have been adjudicated delinquent for,  
409 and the record must not have been sealed or expunged for, any of  
410 the following offenses or any similar offense of another  
411 jurisdiction:

- 412 a. Any authorizing statutes, if the offense was a felony.  
413 b. This chapter, if the offense was a felony.  
414 c. Section 409.920, relating to Medicaid provider fraud.  
415 d. Section 409.9201, relating to Medicaid fraud.  
416 e. Section 741.28, relating to domestic violence.  
417 f. Section 817.034, relating to fraudulent acts through  
418 mail, wire, radio, electromagnetic, photoelectronic, or  
419 photooptical systems.  
420 g. Section 817.234, relating to false and fraudulent  
421 insurance claims.  
422 h. Section 817.505, relating to patient brokering.  
423 i. Section 817.568, relating to criminal use of personal  
424 identification information.  
425 j. Section 817.60, relating to obtaining a credit card  
426 through fraudulent means.  
427 k. Section 817.61, relating to fraudulent use of credit  
428 cards, if the offense was a felony.  
429 l. Section 831.01, relating to forgery.  
430 m. Section 831.02, relating to uttering forged instruments.  
431 n. Section 831.07, relating to forging bank bills, checks,  
432 drafts, or promissory notes.  
433 o. Section 831.09, relating to uttering forged bank bills,  
434 checks, drafts, or promissory notes.  
435 p. Section 831.30, relating to fraud in obtaining medicinal

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436 drugs.

437 q. Section 831.31, relating to the sale, manufacture,  
438 delivery, or possession with the intent to sell, manufacture, or  
439 deliver any counterfeit controlled substance, if the offense was  
440 a felony.

441 6. At least 30 calendar days before a transfer of ownership  
442 of a private school, the owner or operator shall notify the  
443 parent of each scholarship student.

444 7. The owner or operator of a private school that has been  
445 deemed ineligible to participate in a scholarship program  
446 pursuant to this chapter may not transfer ownership or  
447 management authority of the school to a relative in order to  
448 participate in a scholarship program as the same school or a new  
449 school. For purposes of this subparagraph, the term "relative"  
450 means father, mother, son, daughter, grandfather, grandmother,  
451 brother, sister, uncle, aunt, cousin, nephew, niece, husband,  
452 wife, father-in-law, mother-in-law, son-in-law, daughter-in-law,  
453 brother-in-law, sister-in-law, stepfather, stepmother, stepson,  
454 stepdaughter, stepbrother, stepsister, half-brother, or half-  
455 sister.

456 (q) Provide a report from an independent certified public  
457 accountant who performs the agreed-upon procedures developed  
458 pursuant to s. 1002.395(6)(o) if the private school receives  
459 more than \$250,000 in funds from scholarships awarded under this  
460 chapter in a state fiscal year. A private school subject to this  
461 subsection must annually submit the report by September 15 to  
462 the scholarship-funding organization that awarded the majority  
463 of the school's scholarship funds. However, a school that  
464 receives more than \$250,000 in scholarship funds only through



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465 the John M. McKay Scholarship for Students with Disabilities  
466 Program pursuant to s. 1002.39 must submit the annual report by  
467 September 15 to the department. The agreed-upon procedures must  
468 be conducted in accordance with attestation standards  
469 established by the American Institute of Certified Public  
470 Accountants.

471  
472 The department shall suspend the payment of funds to a private  
473 school that knowingly fails to comply with this subsection, and  
474 shall prohibit the school from enrolling new scholarship  
475 students, for 1 fiscal year and until the school complies. If a  
476 private school fails to meet the requirements of this subsection  
477 or has consecutive years of material exceptions listed in the  
478 report required under paragraph (q), the commissioner may  
479 determine that the private school is ineligible to participate  
480 in a scholarship program.

481       Section 6. If any provision of this act or its application  
482 to any person or circumstance is held invalid, the invalidity  
483 does not affect other provisions or applications of the act  
484 which can be given effect without the invalid provision or  
485 application, and to this end the provisions of this act are  
486 severable.

487       Section 7. This act shall take effect July 1, 2021.

488