

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"; amending the
 8 terms "child care" and "child care facility"; amending
 9 s. 402.305, F.S.; removing a requirement to adopt a
 10 definition by rule; providing exemptions from facility
 11 requirements; conforming provisions to changes made by
 12 the act; amending ss. 39.201, 402.317, 435.07,
 13 1002.82, and 1002.88, F.S.; conforming cross-
 14 references; providing an effective date.

15
 16 Be It Enacted by the Legislature of the State of Florida:

17
 18 Section 1. Subsection (6) of section 402.301, Florida
 19 Statutes, is amended to read:

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

25 (6) It is further the intent that membership organizations

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

41 | Section 2. Subsections (1) through (14) of section
42 | 402.302, Florida Statutes, are renumbered as subsections (2)
43 | through (15), respectively, a new subsection (1) is added to
44 | that section, new subsections (2) and (3) are amended,
45 | subsections (15) through (18) are renumbered as subsections (17)
46 | through (20), and a new subsection (16) is added to that
47 | 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-directed
63 activities.

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

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 non-public 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 one
 78 that allows children to come and go at will. An open access
 79 program may not serve children for more than four hours per
 80 regular school day; may not advertise or otherwise represent
 81 that it provides child care or after-school care, is an after-
 82 school program, or offers supervision; may not provide
 83 supervision; may not provide transportation, directly or
 84 indirectly; may not provide meals or snacks outside of the
 85 federal Afterschool Meal Program; and may not deliver a school
 86 readiness program pursuant to s. 1002.88.

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

90 (2)(1) "Child care" means the care, protection, and
 91 supervision of a child, for a period of less than 24 hours a day
 92 on a regular basis, which supplements parental care, enrichment,
 93 and health supervision for the child, in accordance with his or
 94 her individual needs, and for which a payment, fee, or grant is
 95 made for care. A nominal membership fee is a fee for care. Child
 96 care may also include, but is not limited to, providing
 97 transportation, food services, educational activities, and
 98 instructional activities.

99 (3)(2) "Child care facility" includes any child care
 100 center, after school program, or child care arrangement which

101 provides child care for more than five children unrelated to the
102 operator and which receives a payment, fee, or grant for any of
103 the children receiving care, wherever operated, and whether or
104 not operated for profit. The following are not included:

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

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

109 (c) Summer day camps;

110 (d) Bible schools normally conducted during vacation
111 periods; and

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

117 (16) "School age child" means a child who is at least 5
118 years of age by September 1 of the beginning of the school year,
119 and no older than 12 years of age, who attends grades
120 kindergarten and above.

121 Section 3. Paragraph (c) of subsection (1) of section
122 402.305, Florida Statutes, is amended to read:

123 402.305 Licensing standards; child care facilities.—

124 (1) LICENSING STANDARDS.—The department shall establish
125 licensing standards that each licensed child care facility must

126 meet regardless of the origin or source of the fees used to
127 operate the facility or the type of children served by the
128 facility.

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

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

141 2. Notwithstanding any other provision of law to the
142 contrary, minimum child care licensing standards shall be
143 developed to provide for reasonable, affordable, and safe
144 before-school and after-school care.

145 3. ~~After-school~~ Programs that otherwise meet the criteria
146 for exclusion from child care licensure as an after-school
147 program may provide snacks and meals through the federal
148 Afterschool Meal Program (AMP) administered by the Department of
149 Health in accordance with federal regulations and standards. The
150 Department of Health shall consider meals to be provided through

151 the AMP only if the program is actively participating in the
152 AMP, is in good standing with the department, and the meals meet
153 AMP requirements.

154 4. Standards, at a minimum, shall allow for a credentialed
155 director to supervise multiple ~~before-school and~~ after-school
156 program sites.

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

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

169 (b) 1. A child care facility that does not hold a valid
170 license on October 1, 1992, and seeks regulatory approval to
171 operate as a child care facility must have a minimum of 35
172 square feet of usable floor space for each child and a minimum
173 of 45 square feet of usable outdoor play area for each child.

174 2. A membership organization affiliated with a national
175 organization, which is licensed after July 1, 2018, and before

176 June 30, 2020, for an after-school program, is exempt from
177 facility requirements related to square footage for usable
178 indoor floor space, square footage for usable outdoor play area,
179 and restroom and bath facilities. Such an organization that
180 remodels its facility or begins using a new facility on or after
181 July 1, 2020, shall meet the square footage requirements for
182 usable indoor floor space and usable outdoor play area in
183 subparagraph (b)1., and any restroom and bath facility
184 requirements specified in rule.

185
186 The minimum standard for outdoor play area does not apply in
187 calculating square footage for children under 1 year of age.
188 However, appropriate outdoor infant equipment shall be
189 substituted for outdoor play space. The centers shall provide
190 facilities and equipment conducive to the physical activities
191 appropriate for the age and physical development of the child.

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

194 39.201 Mandatory reports of child abuse, abandonment, or
195 neglect; mandatory reports of death; central abuse hotline.—

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

198 39.202(2)(a) and (h) or s. 402.302(17) ~~s. 402.302(15)~~.

199 Information in the central abuse hotline and the department's
200 automated abuse information system may be used by the

201 department, its authorized agents or contract providers, the
 202 Department of Health, or county agencies as part of the
 203 licensure or registration process pursuant to ss. 402.301-
 204 402.319 and ss. 409.175-409.176. Pursuant to s. 39.202(2)(q),
 205 the information in the central abuse hotline may also be used by
 206 the Department of Education for purposes of educator
 207 certification discipline and review.

208 Section 5. Section 402.317, Florida Statutes, is amended
 209 to read:

210 402.317 Prolonged child care.—Notwithstanding the time
 211 restriction specified in s. 402.302(2) ~~s. 402.302(1)~~, child care
 212 may be provided for 24 hours or longer for a child whose parent
 213 or legal guardian works a shift of 24 hours or more. The
 214 requirement that a parent or legal guardian work a shift of 24
 215 hours or more must be certified in writing by the employer, and
 216 the written certification shall be maintained in the facility by
 217 the child care provider and made available to the licensing
 218 agency. The time that a child remains in child care, however,
 219 may not exceed 72 consecutive hours in any 7-day period. During
 220 a declared state of emergency, the child care licensing agency
 221 may temporarily waive the time limitations provided in this
 222 section.

223 Section 6. Paragraph (c) of subsection (4) of section
 224 435.07, Florida Statutes, is amended to read:

225 435.07 Exemptions from disqualification.—Unless otherwise

226 | provided by law, the provisions of this section apply to
 227 | exemptions from disqualification for disqualifying offenses
 228 | revealed pursuant to background screenings required under this
 229 | chapter, regardless of whether those disqualifying offenses are
 230 | listed in this chapter or other laws.

231 | (4)

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

246 | 1. A felony offense prohibited under any of the following
 247 | statutes:

- 248 | a. Chapter 741, relating to domestic violence.
- 249 | b. Section 782.04, relating to murder.
- 250 | c. Section 782.07, relating to manslaughter, aggravated

251 | manslaughter of an elderly person or disabled adult, aggravated
 252 | manslaughter of a child, or aggravated manslaughter of an
 253 | officer, a firefighter, an emergency medical technician, or a
 254 | paramedic.

255 | d. Section 784.021, relating to aggravated assault.

256 | e. Section 784.045, relating to aggravated battery.

257 | f. Section 787.01, relating to kidnapping.

258 | g. Section 787.025, relating to luring or enticing a
 259 | child.

260 | h. Section 787.04(2), relating to leading, taking,
 261 | enticing, or removing a minor beyond the state limits, or
 262 | concealing the location of a minor, with criminal intent pending
 263 | custody proceedings.

264 | i. Section 787.04(3), 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 | dependency proceedings or proceedings concerning alleged abuse
 268 | or neglect of a minor.

269 | j. Section 794.011, relating to sexual battery.

270 | k. Former s. 794.041, relating to sexual activity with or
 271 | solicitation of a child by a person in familial or custodial
 272 | authority.

273 | l. Section 794.05, relating to unlawful sexual activity
 274 | with certain minors.

275 | m. Section 794.08, relating to female genital mutilation.

276 | n. Section 806.01, relating to arson.
 277 | o. Section 826.04, relating to incest.
 278 | p. Section 827.03, relating to child abuse, aggravated
 279 | child abuse, or neglect of a child.
 280 | q. Section 827.04, relating to contributing to the
 281 | delinquency or dependency of a child.
 282 | r. Section 827.071, relating to sexual performance by a
 283 | child.
 284 | s. Chapter 847, relating to child pornography.
 285 | t. Section 985.701, relating to sexual misconduct in
 286 | juvenile justice programs.
 287 | 2. A misdemeanor offense prohibited under any of the
 288 | following statutes:
 289 | a. Section 784.03, relating to battery, if the victim of
 290 | the offense was a minor.
 291 | b. Section 787.025, relating to luring or enticing a
 292 | child.
 293 | c. Chapter 847, relating to child pornography.
 294 | 3. A criminal act committed in another state or under
 295 | federal law which, if committed in this state, constitutes an
 296 | offense prohibited under any statute listed in subparagraph 1.
 297 | or subparagraph 2.
 298 | Section 7. Paragraph (w) of subsection (2) of section
 299 | 1002.82, Florida Statutes, is amended to read:
 300 | 1002.82 Office of Early Learning; powers and duties.—

301 (2) The office shall:
 302 (w) Establish staff-to-children ratios that do not exceed
 303 the requirements of s. 402.302(9) or (12) ~~s. 402.302(8) or (11)~~
 304 or s. 402.305(4), as applicable, for school readiness program
 305 providers.

306 Section 8. Paragraph (e) of subsection (1) of section
 307 1002.88, Florida Statutes, is amended to read:

308 1002.88 School readiness program provider standards;
 309 eligibility to deliver the school readiness program.-

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

312 (e) Employ child care personnel, as defined in s.
 313 402.302(4) ~~s. 402.302(3)~~, who have satisfied the screening
 314 requirements of chapter 402 and fulfilled the training
 315 requirements of the office.

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

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