

By Senator Forman

32-1068A-98

See HB

1                                   A bill to be entitled  
2           An act relating to day care facilities;  
3           creating the "Jeremy Fiedelholtz Safe Day Care  
4           Act"; amending s. 402.319, F.S.; increasing a  
5           penalty for violations relating to licensure or  
6           operation of a day care facility or family day  
7           care home; providing a penalty for making other  
8           misrepresentations to certain persons regarding  
9           such licensure or operation or for violations  
10          relating to the staff-to-children ratio or the  
11          number of children at the facility; amending s.  
12          921.0022, F.S.; providing for ranking of  
13          violations on the offense severity ranking  
14          chart; providing an effective date.

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

17  
18           Section 1. This act may be cited as the "Jeremy  
19 Fiedelholtz Safe Day Care Act."

20           Section 2. Section 402.319, Florida Statutes, is  
21 amended to read:

22           402.319 Penalties.--

23           (1) It is a felony ~~misdemeanor~~ of the third ~~first~~  
24 degree, punishable as provided in s. 775.082 or s. 775.083,  
25 for any person ~~willfully, knowingly, or intentionally~~ to:

26           (a) ~~(1)~~ Fail, by false statement, misrepresentation,  
27 impersonation, or other fraudulent means, to disclose in any  
28 application for voluntary or paid employment or licensure  
29 regulated under ss. 402.301-402.318 all information required  
30 under those sections or a material fact used in making a  
31 determination as to such person's qualifications to be child

1 care personnel, as defined in s. 402.302,~~an owner, operator,~~  
2 ~~employee, or volunteer~~ in a child care facility, family day  
3 care home, or other child care program.

4 (b)(2) Operate or attempt to operate a child care  
5 facility without having procured a license as required by this  
6 act.

7 (c)(5) Operate or attempt to operate a family day care  
8 home without a license or without registering with the  
9 department, whichever is applicable.

10 (d)(3) Operate or attempt to operate a child care  
11 facility or family day care home under a license that is  
12 suspended, revoked, or terminated.

13 (e)(4) Misrepresent ~~Represent~~, by act or omission, a  
14 child care facility or family day care home to be duly  
15 licensed pursuant to this act without being so licensed.

16 (f) Make any other misrepresentation, by act or  
17 omission, regarding the licensure or operation of a child care  
18 facility or family day care home to a parent or guardian who  
19 has a child placed in the facility or is inquiring as to  
20 placing a child in the facility, or to a representative of the  
21 licensing authority, or to a representative of a law  
22 enforcement agency, including, but not limited to, any  
23 misrepresentation as to:

24 1. The number of children at the facility, in  
25 violation of s. 402.302(7) or s. 402.305(4);

26 2. The part of the facility designated for child care;  
27 or

28 3. The credentials, relating to the care of children,  
29 of any child care personnel, as defined in s. 402.302.

30 (g) Operate a child care facility or family day care  
31 home in violation of s. 402.302(7) or s. 402.305(4).

1           (2) In the event that great bodily harm, permanent  
2 disability, or permanent disfigurement results from a  
3 violation of this section, the violation shall be a felony of  
4 the second degree, punishable as provided in s. 775.082 or s.  
5 775.083.

6           Section 3. Paragraphs (f) and (g) of subsection (3) of  
7 section 921.0022, Florida Statutes, are amended to read:

8           921.0022 Criminal Punishment Code; offense severity  
9 ranking chart.--

10           (3) OFFENSE SEVERITY RANKING CHART

11	12	13	14
	Florida	Felony	
	Statute	Degree	Description
15			(f) LEVEL 6
16	316.027(1)(b)	2nd	Accident involving death, failure
17			to stop; leaving scene.
18	316.193(2)(b)	3rd	Felony DUI, 4th or subsequent
19			conviction.
20	<u>402.319(1)(f)&amp;(g)</u>	<u>3rd</u>	<u>Felony misrepresentation or</u>
21			<u>operation of a child care</u>
22			<u>facility.</u>
23	775.0875(1)	3rd	Taking firearm from law
24			enforcement officer.
25	784.021(1)(a)	3rd	Aggravated assault; deadly weapon
26			without intent to kill.
27	784.021(1)(b)	3rd	Aggravated assault; intent to
28			commit felony.
29	784.048(3)	3rd	Aggravated stalking; credible
30			threat.

1	784.07(2)(c)	2nd	Aggravated assault on law
2			enforcement officer.
3	784.08(2)(b)	2nd	Aggravated assault on a person 65
4			years of age or older.
5	784.081(2)	2nd	Aggravated assault on specified
6			official or employee.
7	784.082(2)	2nd	Aggravated assault by detained
8			person on visitor or other
9			detainee.
10	787.02(2)	3rd	False imprisonment; restraining
11			with purpose other than those in
12			s. 787.01.
13	790.115(2)(d)	2nd	Discharging firearm or weapon on
14			school property.
15	790.161(2)	2nd	Make, possess, or throw
16			destructive device with intent to
17			do bodily harm or damage
18			property.
19	790.164(1)	2nd	False report of deadly explosive
20			or act of arson or violence to
21			state property.
22	790.19	2nd	Shooting or throwing deadly
23			missiles into dwellings, vessels,
24			or vehicles.
25	794.011(8)(a)	3rd	Solicitation of minor to
26			participate in sexual activity by
27			custodial adult.
28	794.05(1)	2nd	Unlawful sexual activity with
29			specified minor.
30			
31			

1	806.031(2)	2nd	Arson resulting in great bodily
2			harm to firefighter or any other
3			person.
4	810.02(3)(c)	2nd	Burglary of occupied structure;
5			unarmed; no assault or battery.
6	812.014(2)(b)	2nd	Property stolen \$20,000 or more,
7			but less than \$100,000, grand
8			theft in 2nd degree.
9	812.13(2)(c)	2nd	Robbery, no firearm or other
10			weapon (strong-arm robbery).
11	817.034(4)(a)1.	1st	Communications fraud, value
12			greater than \$50,000.
13	817.4821(5)	2nd	Possess cloning paraphernalia
14			with intent to create cloned
15			cellular telephones.
16	825.102(1)	3rd	Abuse of an elderly person or
17			disabled adult.
18	825.102(3)(c)	3rd	Neglect of an elderly person or
19			disabled adult.
20	825.1025(3)	3rd	Lewd or lascivious molestation of
21			an elderly person or disabled
22			adult.
23	825.103(2)(c)	3rd	Exploiting an elderly person or
24			disabled adult and property is
25			valued at \$100 or more, but less
26			than \$20,000.
27	827.03(1)	3rd	Abuse of a child.
28	827.03(3)(c)	3rd	Neglect of a child.
29	827.071(2)&(3)	2nd	Use or induce a child in a sexual
30			performance, or promote or direct
31			such performance.

1	836.05	2nd	Threats; extortion.
2	836.10	2nd	Written threats to kill or do
3			bodily injury.
4	843.12	3rd	Aids or assists person to escape.
5	914.23	2nd	Retaliation against a witness,
6			victim, or informant, with bodily
7			injury.
8	944.35(3)(a)2.	3rd	Committing malicious battery upon
9			or inflicting cruel or inhuman
10			treatment on an inmate or
11			offender on community
12			supervision, resulting in great
13			bodily harm.
14	944.40	2nd	Escapes.
15	944.46	3rd	Harboring, concealing, aiding
16			escaped prisoners.
17	944.47(1)(a)5.	2nd	Introduction of contraband
18			(firearm, weapon, or explosive)
19			into correctional facility.
20	951.22(1)	3rd	Intoxicating drug, firearm, or
21			weapon introduced into county
22			facility.
23			(g) LEVEL 7
24	316.193(3)(c)2.	3rd	DUI resulting in serious bodily
25			injury.
26	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
27			bodily injury.
28	<u>402.319(2)</u>	<u>2nd</u>	<u>Child care facility violation</u>
29			<u>resulting in great bodily harm,</u>
30			<u>or permanent disability or</u>
31			<u>disfigurement.</u>

1	409.920(2)	3rd	Medicaid provider fraud.
2	494.0018(2)	1st	Conviction of any violation of
3			ss. 494.001-494.0077 in which the
4			total money and property
5			unlawfully obtained exceeded
6			\$50,000 and there were five or
7			more victims.
8	782.07(1)	2nd	Killing of a human being by the
9			act, procurement, or culpable
10			negligence of another
11			(manslaughter).
12	782.071	3rd	Killing of human being by the
13			operation of a motor vehicle in a
14			reckless manner (vehicular
15			homicide).
16	782.072	3rd	Killing of a human being by the
17			operation of a vessel in a
18			reckless manner (vessel
19			homicide).
20	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
21			causing great bodily harm or
22			disfigurement.
23	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
24			weapon.
25	784.045(1)(b)	2nd	Aggravated battery; perpetrator
26			aware victim pregnant.
27	784.048(4)	3rd	Aggravated stalking; violation of
28			injunction or court order.
29	784.07(2)(d)	1st	Aggravated battery on law
30			enforcement officer.
31			

1	784.08(2)(a)	1st	Aggravated battery on a person 65
2			years of age or older.
3	784.081(1)	1st	Aggravated battery on specified
4			official or employee.
5	784.082(1)	1st	Aggravated battery by detained
6			person on visitor or other
7			detainee.
8	790.07(4)	1st	Specified weapons violation
9			subsequent to previous conviction
10			of s. 790.07(1) or (2).
11	790.16(1)	1st	Discharge of a machine gun under
12			specified circumstances.
13	796.03	2nd	Procuring any person under 16
14			years for prostitution.
15	800.04	2nd	Handle, fondle, or assault child
16			under 16 years in lewd,
17			lascivious, or indecent manner.
18	806.01(2)	2nd	Maliciously damage structure by
19			fire or explosive.
20	810.02(3)(a)	2nd	Burglary of occupied dwelling;
21			unarmed; no assault or battery.
22	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
23			unarmed; no assault or battery.
24	810.02(3)(d)	2nd	Burglary of occupied conveyance;
25			unarmed; no assault or battery.
26	812.014(2)(a)	1st	Property stolen, valued at
27			\$100,000 or more; property stolen
28			while causing other property
29			damage; 1st degree grand theft.
30			
31			



1	812.019(2)	1st	Stolen property; initiates,
2			organizes, plans, etc., the theft
3			of property and traffics in
4			stolen property.
5	812.133(2)(b)	1st	Carjacking; no firearm, deadly
6			weapon, or other weapon.
7	825.102(3)(b)	2nd	Neglecting an elderly person or
8			disabled adult causing great
9			bodily harm, disability, or
10			disfigurement.
11	825.1025(2)	2nd	Lewd or lascivious battery upon
12			an elderly person or disabled
13			adult.
14	825.103(2)(b)	2nd	Exploiting an elderly person or
15			disabled adult and property is
16			valued at \$20,000 or more, but
17			less than \$100,000.
18	827.03(3)(b)	2nd	Neglect of a child causing great
19			bodily harm, disability, or
20			disfigurement.
21	827.04(4)	3rd	Impregnation of a child under 16
22			years of age by person 21 years
23			of age or older.
24	872.06	2nd	Abuse of a dead human body.
25	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
26			cocaine (or other s.
27			893.03(1)(a), (1)(b), (1)(d),
28			(2)(a), or (2)(b) drugs) within
29			1,000 feet of a school.
30			
31			

1 893.13(4)(a) 1st Deliver to minor cocaine (or  
2 other s. 893.03(1)(a), (1)(b),  
3 (1)(d), (2)(a), or (2)(b) drugs).  
4 893.135(1)(a)1. 1st Trafficking in cannabis, more  
5 than 50 lbs., less than 2,000  
6 lbs.  
7 893.135  
8 (1)(b)1.a. 1st Trafficking in cocaine, more than  
9 28 grams, less than 200 grams.  
10 893.135  
11 (1)(c)1.a. 1st Trafficking in illegal drugs,  
12 more than 4 grams, less than 14  
13 grams.  
14 893.135  
15 (1)(d)1. 1st Trafficking in phencyclidine,  
16 more than 28 grams, less than 200  
17 grams.  
18 893.135(1)(e)1. 1st Trafficking in methaqualone, more  
19 than 200 grams, less than 5  
20 kilograms.  
21 893.135(1)(f)1. 1st Trafficking in amphetamine, more  
22 than 14 grams, less than 28  
23 grams.  
24 Section 4. This act shall take effect October 1 of the  
25 year in which enacted.  
26  
27  
28  
29  
30  
31

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

\*\*\*\*\*

LEGISLATIVE SUMMARY

Creates the "Jeremy Fiedelholz Safe Day Care Act."  
Increases the penalty for violations relating to  
licensure or operation of a day care facility or family  
day care home, or misrepresenting one's qualifications  
with respect thereto, from a first degree misdemeanor to  
a third degree felony. Provides a third degree felony  
penalty for making other misrepresentations to certain  
persons regarding such licensure or operation or for  
violating requirements relating to the staff-to-children  
ratio or the number of children at the facility. Provides  
a second degree felony penalty in the event a violation  
results in great bodily harm, permanent disability, or  
permanent disfigurement. Provides for ranking of  
violations on the offense severity ranking chart.