

By the Committee on Criminal Justice and Senators Forman and Campbell

307-2158A-98

1                                   A bill to be entitled  
2           An act relating to child care facilities;  
3           creating the "Jeremy Fiedelholtz Safe Day Care  
4           Act"; amending s. 402.319, F.S.; providing a  
5           penalty for making misrepresentations to  
6           certain persons regarding licensure or  
7           operation of a child care facility or family  
8           day care home; providing a penalty for culpable  
9           negligence or intentional act and the parent or  
10          guardian relied on a misrepresentation;  
11          amending s. 921.0022, F.S.; providing for  
12          ranking of violation on the offense severity  
13          ranking chart; providing an effective date.

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

16  
17           Section 1. This act may be cited as the "Jeremy  
18 Fiedelholtz Safe Day Care Act."

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

21           402.319 Penalties.--

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

25           (a)(1) Fail, by false statement, misrepresentation,  
26 impersonation, or other fraudulent means, to disclose in any  
27 application for voluntary or paid employment or licensure  
28 regulated under ss. 402.301-402.318 all information required  
29 under those sections or a material fact used in making a  
30 determination as to such person's qualifications to be child  
31 care personnel, as defined in s. 402.302,~~an owner, operator,~~

1 ~~employee, or volunteer~~ in a child care facility, family day  
2 care home, or other child care program.

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

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

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

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

15 ~~(f)~~ Make any other misrepresentation, by act,  
16 regarding the licensure or operation of a child care facility  
17 or family day care home to a parent or guardian who has a  
18 child placed in the facility or is inquiring as to placing a  
19 child in the facility, including, but not limited to, any  
20 misrepresentation as to:

21 1. The number of children at the child care facility  
22 or the family day care home;

23 2. The part of the child care facility or family day  
24 care home designated for child care;

25 3. The qualifications or credentials of child care  
26 personnel;

27 4. Whether a family day care home or child care  
28 facility complies with the screening requirements of s.  
29 402.305; or

30 5. Whether child care personnel have the training as  
31 required by s. 402.305.

1           (2) If any child care personnel makes any  
2 misrepresentation in violation of this section to a parent or  
3 guardian who has placed a child in the child care facility or  
4 family day care home, and the parent or guardian relied upon  
5 the misrepresentation, and the child suffers great bodily  
6 harm, permanent disfigurement, permanent disability, or death  
7 as a result of an intentional act or culpable negligence by  
8 the child care personnel, then the child care personnel  
9 commits a felony of the second degree, punishable as provided  
10 in s. 775.082, s. 775.083, or s. 775.084.

11           Section 3. Paragraph (g) of subsection (3) of section  
12 921.0022, Florida Statutes, is amended to read:

13           921.0022 Criminal Punishment Code; offense severity  
14 ranking chart.--

15           (3) OFFENSE SEVERITY RANKING CHART

17 Florida Statute	Felony Degree	Description
		(g) LEVEL 7
21 316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
23 327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
25 <u>402.319(2)</u>	<u>2nd</u>	<u>Misrepresentation and culpable negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.</u>
30 409.920(2)	3rd	Medicaid provider fraud.

1	494.0018(2)	1st	Conviction of any violation of
2			ss. 494.001-494.0077 in which the
3			total money and property
4			unlawfully obtained exceeded
5			\$50,000 and there were five or
6			more victims.
7	782.07(1)	2nd	Killing of a human being by the
8			act, procurement, or culpable
9			negligence of another
10			(manslaughter).
11	782.071	3rd	Killing of human being by the
12			operation of a motor vehicle in a
13			reckless manner (vehicular
14			homicide).
15	782.072	3rd	Killing of a human being by the
16			operation of a vessel in a
17			reckless manner (vessel
18			homicide).
19	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
20			causing great bodily harm or
21			disfigurement.
22	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
23			weapon.
24	784.045(1)(b)	2nd	Aggravated battery; perpetrator
25			aware victim pregnant.
26	784.048(4)	3rd	Aggravated stalking; violation of
27			injunction or court order.
28	784.07(2)(d)	1st	Aggravated battery on law
29			enforcement officer.
30	784.08(2)(a)	1st	Aggravated battery on a person 65
31			years of age or older.

1	784.081(1)	1st	Aggravated battery on specified
2			official or employee.
3	784.082(1)	1st	Aggravated battery by detained
4			person on visitor or other
5			detainee.
6	790.07(4)	1st	Specified weapons violation
7			subsequent to previous conviction
8			of s. 790.07(1) or (2).
9	790.16(1)	1st	Discharge of a machine gun under
10			specified circumstances.
11	796.03	2nd	Procuring any person under 16
12			years for prostitution.
13	800.04	2nd	Handle, fondle, or assault child
14			under 16 years in lewd,
15			lascivious, or indecent manner.
16	806.01(2)	2nd	Maliciously damage structure by
17			fire or explosive.
18	810.02(3)(a)	2nd	Burglary of occupied dwelling;
19			unarmed; no assault or battery.
20	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
21			unarmed; no assault or battery.
22	810.02(3)(d)	2nd	Burglary of occupied conveyance;
23			unarmed; no assault or battery.
24	812.014(2)(a)	1st	Property stolen, valued at
25			\$100,000 or more; property stolen
26			while causing other property
27			damage; 1st degree grand theft.
28	812.019(2)	1st	Stolen property; initiates,
29			organizes, plans, etc., the theft
30			of property and traffics in
31			stolen property.

1	812.133(2)(b)	1st	Carjacking; no firearm, deadly
2			weapon, or other weapon.
3	825.102(3)(b)	2nd	Neglecting an elderly person or
4			disabled adult causing great
5			bodily harm, disability, or
6			disfigurement.
7	825.1025(2)	2nd	Lewd or lascivious battery upon
8			an elderly person or disabled
9			adult.
10	825.103(2)(b)	2nd	Exploiting an elderly person or
11			disabled adult and property is
12			valued at \$20,000 or more, but
13			less than \$100,000.
14	827.03(3)(b)	2nd	Neglect of a child causing great
15			bodily harm, disability, or
16			disfigurement.
17	827.04(4)	3rd	Impregnation of a child under 16
18			years of age by person 21 years
19			of age or older.
20	872.06	2nd	Abuse of a dead human body.
21	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
22			cocaine (or other s.
23			893.03(1)(a), (1)(b), (1)(d),
24			(2)(a), or (2)(b) drugs) within
25			1,000 feet of a school.
26	893.13(4)(a)	1st	Deliver to minor cocaine (or
27			other s. 893.03(1)(a), (1)(b),
28			(1)(d), (2)(a), or (2)(b) drugs).
29	893.135(1)(a)1.	1st	Trafficking in cannabis, more
30			than 50 lbs., less than 2,000
31			lbs.

- 1 893.135  
2 (1)(b)1.a. 1st Trafficking in cocaine, more than  
3 28 grams, less than 200 grams.  
4 893.135  
5 (1)(c)1.a. 1st Trafficking in illegal drugs,  
6 more than 4 grams, less than 14  
7 grams.  
8 893.135  
9 (1)(d)1. 1st Trafficking in phencyclidine,  
10 more than 28 grams, less than 200  
11 grams.  
12 893.135(1)(e)1. 1st Trafficking in methaqualone, more  
13 than 200 grams, less than 5  
14 kilograms.  
15 893.135(1)(f)1. 1st Trafficking in amphetamine, more  
16 than 14 grams, less than 28  
17 grams.

18 Section 4. This act shall take effect October 1, 1998.

19  
20 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
21 COMMITTEE SUBSTITUTE FOR  
22 Senate Bill 1122

- 23 . Restores the first-degree misdemeanor penalties for  
24 violations of the various child day care offenses.  
25 . Deletes the term "omission" as an alternative element to  
26 the offense of misrepresentation to a parent or guardian  
27 about the child day care facility.  
28 . Deletes representatives of the licensing authority or a  
29 law enforcement agency from the list of persons to whom a  
30 misrepresentation about the child day care facility is  
31 prohibited.  
32 . Deletes the provision providing criminal penalties for  
the operation of a child care facility or family day care  
home in violation of the staff-to-children ratios.  
33 . Rewords the enhancement provision for violations  
resulting in great bodily harm or death to a child.