

Bill No. CS for SB 2150

Amendment No. ____

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Bankhead moved the following substitute for amendment (360712):

Senate Amendment (with title amendment)

On page 2, between lines 26 and 27,

insert:

Section 3. Section 4 of this act may be cited as the "Jeremy Fiedelholz Safe Day Care Act."

Section 4. Section 402.319, Florida Statutes, is amended to read:

402.319 Penalties; aggravating circumstances.--

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

(a)~~(1)~~ Fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose in any application for voluntary or paid employment or licensure regulated under ss. 402.301-402.318 a material fact used in making a determination as to such person's qualifications to be an owner, operator, employee, or volunteer in a child care

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1 facility or other child care program.

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

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

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

11 (e)(4) Represent, by act or omission, a child care
12 facility to be duly licensed pursuant to this act without
13 being so licensed.

14 (2) The court may increase the penalty provided in
15 this section to a felony of the third degree if the court
16 finds, beyond a reasonable doubt, that the owner or operator
17 of a child care or family day care facility has knowingly,
18 willfully, and intentionally misrepresented a material fact
19 regarding:

20 (a) The facility's staff-to-children ratio, and is in
21 violation of s. 402.305(4), to the extent that the number of
22 children at the facility rounded to the next higher number
23 exceeds statutory limits by 50 percent or more; or

24 (b) The facility's licensure as required under s.
25 402.305, and

26
27 a parent, in reliance upon such misrepresentation, has placed
28 a child in the facility and the child suffered great bodily
29 harm, significant permanent disfigurement, permanent
30 disability, or death as a result of such misrepresentation and
31 as a result of an intentional egregious act or gross

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1 negligence committed by the facility owner or operator or
 2 committed by an employee of the facility who acted with the
 3 knowledge and consent of the owner or operator.

4 Section 5. Paragraph (g) of subsection (3) of section
 5 921.0022, Florida Statutes, is amended to read:

6 921.0022 Criminal Punishment Code; offense severity
 7 ranking chart.--

8 (3) OFFENSE SEVERITY RANKING CHART

10 Florida	Felony	
11 Statute	Degree	Description
		(g) LEVEL 7
14 316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
16 327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
18 <u>402.319(2)</u>	<u>3rd</u>	<u>Misrepresentation and gross negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.</u>
23 409.920(2)	3rd	Medicaid provider fraud.
24 494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
30 782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable

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1			negligence of another
2			(manslaughter).
3	782.071	3rd	Killing of human being by the
4			operation of a motor vehicle in a
5			reckless manner (vehicular
6			homicide).
7	782.072	3rd	Killing of a human being by the
8			operation of a vessel in a
9			reckless manner (vessel
10			homicide).
11	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
12			causing great bodily harm or
13			disfigurement.
14	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
15			weapon.
16	784.045(1)(b)	2nd	Aggravated battery; perpetrator
17			aware victim pregnant.
18	784.048(4)	3rd	Aggravated stalking; violation of
19			injunction or court order.
20	784.07(2)(d)	1st	Aggravated battery on law
21			enforcement officer.
22	784.08(2)(a)	1st	Aggravated battery on a person 65
23			years of age or older.
24	784.081(1)	1st	Aggravated battery on specified
25			official or employee.
26	784.082(1)	1st	Aggravated battery by detained
27			person on visitor or other
28			detainee.
29	790.07(4)	1st	Specified weapons violation
30			subsequent to previous conviction
31			of s. 790.07(1) or (2).

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1	790.16(1)	1st	Discharge of a machine gun under
2			specified circumstances.
3	796.03	2nd	Procuring any person under 16
4			years for prostitution.
5	800.04	2nd	Handle, fondle, or assault child
6			under 16 years in lewd,
7			lascivious, or indecent manner.
8	806.01(2)	2nd	Maliciously damage structure by
9			fire or explosive.
10	810.02(3)(a)	2nd	Burglary of occupied dwelling;
11			unarmed; no assault or battery.
12	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
13			unarmed; no assault or battery.
14	810.02(3)(d)	2nd	Burglary of occupied conveyance;
15			unarmed; no assault or battery.
16	812.014(2)(a)	1st	Property stolen, valued at
17			\$100,000 or more; property stolen
18			while causing other property
19			damage; 1st degree grand theft.
20	812.019(2)	1st	Stolen property; initiates,
21			organizes, plans, etc., the theft
22			of property and traffics in
23			stolen property.
24	812.133(2)(b)	1st	Carjacking; no firearm, deadly
25			weapon, or other weapon.
26	825.102(3)(b)	2nd	Neglecting an elderly person or
27			disabled adult causing great
28			bodily harm, disability, or
29			disfigurement.
30	825.1025(2)	2nd	Lewd or lascivious battery upon
31			an elderly person or disabled

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1			adult.
2	825.103(2)(b)	2nd	Exploiting an elderly person or
3			disabled adult and property is
4			valued at \$20,000 or more, but
5			less than \$100,000.
6	827.03(3)(b)	2nd	Neglect of a child causing great
7			bodily harm, disability, or
8			disfigurement.
9	827.04(4)	3rd	Impregnation of a child under 16
10			years of age by person 21 years
11			of age or older.
12	872.06	2nd	Abuse of a dead human body.
13	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
14			cocaine (or other s.
15			893.03(1)(a), (1)(b), (1)(d),
16			(2)(a), or (2)(b) drugs) within
17			1,000 feet of a school.
18	893.13(4)(a)	1st	Deliver to minor cocaine (or
19			other s. 893.03(1)(a), (1)(b),
20			(1)(d), (2)(a), or (2)(b) drugs).
21	893.135(1)(a)1.	1st	Trafficking in cannabis, more
22			than 50 lbs., less than 2,000
23			lbs.
24	893.135		
25	(1)(b)1.a.	1st	Trafficking in cocaine, more than
26			28 grams, less than 200 grams.
27	893.135		
28	(1)(c)1.a.	1st	Trafficking in illegal drugs,
29			more than 4 grams, less than 14
30			grams.
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- 1 893.135
- 2 (1)(d)1. 1st Trafficking in phencyclidine,
- 3 more than 28 grams, less than 200
- 4 grams.
- 5 893.135(1)(e)1. 1st Trafficking in methaqualone, more
- 6 than 200 grams, less than 5
- 7 kilograms.
- 8 893.135(1)(f)1. 1st Trafficking in amphetamine, more
- 9 than 14 grams, less than 28
- 10 grams.

11
12 (Redesignate subsequent sections.)

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15 ===== T I T L E A M E N D M E N T =====

16 And the title is amended as follows:

17 On page 1, lines 2-10, delete those lines

18
19 and insert:

20 An act relating to criminal justice; providing

21 definitions; specifying conditions for

22 committing culpable negligence causing public

23 financial injury; providing penalties;

24 requiring certain contracts to provide notice

25 of such conditions; providing construction;

26 providing for prosecution by a state attorney

27 or the Statewide Prosecutor; creating the

28 "Jeremy Fiedelholz Safe Day Care Act";

29 amending s. 402.319, F.S.; providing an

30 enhanced penalty for making misrepresentations

31 regarding licensure or operation of a child

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1 care facility and violating the required
2 staff-to-children ratio; providing for the
3 enhanced penalty to apply to intentional acts
4 or gross negligence committed by the facility
5 owner or operator or an employee acting with
6 the knowledge and consent of the owner or
7 operator; amending s. 921.0022, F.S.; providing
8 for ranking of violation on the offense
9 severity ranking chart; providing an effective
10 date.

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