

By Senator Forman

32-124B-99

See HB

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

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

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

27 3. The qualifications or credentials of child care
28 personnel;

29 4. Whether a family day care home or child care
30 facility complies with the screening requirements of s.
31 402.305; or

1 5. Whether child care personnel have the training as
2 required by s. 402.305.

3 (2) If any child care personnel makes any
4 misrepresentation in violation of this section to a parent or
5 guardian who has placed a child in the child care facility or
6 family day care home, and the parent or guardian relied upon
7 the misrepresentation, and the child suffers great bodily
8 harm, permanent disfigurement, permanent disability, or death
9 as a result of an intentional act or negligence by the child
10 care personnel, then the child care personnel commits a felony
11 of the second degree, punishable as provided in s. 775.082, s.
12 775.083, or s. 775.084.

13 Section 3. Paragraph (g) of subsection (3) of section
14 921.0022, Florida Statutes, 1998 Supplement, is amended to
15 read:

16 921.0022 Criminal Punishment Code; offense severity
17 ranking chart.--

18 (3) OFFENSE SEVERITY RANKING CHART

19

20 Florida	Felony	
21 Statute	Degree	Description
22		(g) LEVEL 7
23		
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		
29		
30		
31		

1	<u>402.319(2)</u>	<u>2nd</u>	<u>Misrepresentation and negligence</u>
2			<u>or intentional act resulting in</u>
3			<u>great bodily harm, permanent</u>
4			<u>disfiguration, permanent</u>
5			<u>disability, or death.</u>
6	409.920(2)	3rd	Medicaid provider fraud.
7	494.0018(2)	1st	Conviction of any violation of
8			ss. 494.001-494.0077 in which the
9			total money and property
10			unlawfully obtained exceeded
11			\$50,000 and there were five or
12			more victims.
13	782.051(3)	2nd	Attempted felony murder of a
14			person by a person other than the
15			perpetrator or the perpetrator of
16			an attempted felony.
17	782.07(1)	2nd	Killing of a human being by the
18			act, procurement, or culpable
19			negligence of another
20			(manslaughter).
21	782.071	3rd	Killing of human being or viable
22			fetus by the operation of a motor
23			vehicle in a reckless manner
24			(vehicular homicide).
25	782.072	3rd	Killing of a human being by the
26			operation of a vessel in a
27			reckless manner (vessel
28			homicide).
29	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
30			causing great bodily harm or
31			disfigurement.

1	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
2			weapon.
3	784.045(1)(b)	2nd	Aggravated battery; perpetrator
4			aware victim pregnant.
5	784.048(4)	3rd	Aggravated stalking; violation of
6			injunction or court order.
7	784.07(2)(d)	1st	Aggravated battery on law
8			enforcement officer.
9	784.08(2)(a)	1st	Aggravated battery on a person 65
10			years of age or older.
11	784.081(1)	1st	Aggravated battery on specified
12			official or employee.
13	784.082(1)	1st	Aggravated battery by detained
14			person on visitor or other
15			detainee.
16	784.083(1)	1st	Aggravated battery on code
17			inspector.
18	790.07(4)	1st	Specified weapons violation
19			subsequent to previous conviction
20			of s. 790.07(1) or (2).
21	790.16(1)	1st	Discharge of a machine gun under
22			specified circumstances.
23	796.03	2nd	Procuring any person under 16
24			years for prostitution.
25	800.04	2nd	Handle, fondle, or assault child
26			under 16 years in lewd,
27			lascivious, or indecent manner.
28	806.01(2)	2nd	Maliciously damage structure by
29			fire or explosive.
30	810.02(3)(a)	2nd	Burglary of occupied dwelling;
31			unarmed; no assault or battery.

1	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
2			unarmed; no assault or battery.
3	810.02(3)(d)	2nd	Burglary of occupied conveyance;
4			unarmed; no assault or battery.
5	812.014(2)(a)	1st	Property stolen, valued at
6			\$100,000 or more; property stolen
7			while causing other property
8			damage; 1st degree grand theft.
9	812.019(2)	1st	Stolen property; initiates,
10			organizes, plans, etc., the theft
11			of property and traffics in
12			stolen property.
13	812.133(2)(b)	1st	Carjacking; no firearm, deadly
14			weapon, or other weapon.
15	825.102(3)(b)	2nd	Neglecting an elderly person or
16			disabled adult causing great
17			bodily harm, disability, or
18			disfigurement.
19	825.1025(2)	2nd	Lewd or lascivious battery upon
20			an elderly person or disabled
21			adult.
22	825.103(2)(b)	2nd	Exploiting an elderly person or
23			disabled adult and property is
24			valued at \$20,000 or more, but
25			less than \$100,000.
26	827.03(3)(b)	2nd	Neglect of a child causing great
27			bodily harm, disability, or
28			disfigurement.
29	827.04 <u>(3)</u> (4)	3rd	Impregnation of a child under 16
30			years of age by person 21 years
31			of age or older.

1	837.05(2)	3rd	Giving false information about
2			alleged capital felony to a law
3			enforcement officer.
4	872.06	2nd	Abuse of a dead human body.
5	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
6			cocaine (or other drug prohibited
7			under s. 893.03(1)(a), (1)(b),
8			(1)(d), (2)(a), or (2)(b)) within
9			1,000 feet of a child care
10			facility or school.
11	893.13(1)(e)	1st	Sell, manufacture, or deliver
12			cocaine or other drug prohibited
13			under s. 893.03(1)(a), (1)(b),
14			(1)(d), (2)(a), or (2)(b), within
15			1,000 feet of property used for
16			religious services or a specified
17			business site.
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.
31			

- 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.
11 893.135
12 (1)(g)1.a. 1st Trafficking in flunitrazepam, 4
13 grams or more, less than 14
14 grams.

15 Section 4. This act shall take effect October 1, 1999.

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18 HOUSE SUMMARY

19 Creates the "Jeremy Fiedelholz Safe Child Care Act."
20 Provides a first degree misdemeanor penalty for making
21 misrepresentations to certain persons regarding licensure
22 or operation of a child care facility or family day care
23 home, or misrepresenting one's qualifications with
24 respect thereto. Provides a second degree felony penalty
25 where any misrepresentation in violation of the act was
26 made and relied upon by a child's parent or guardian and
27 a negligent or intentional act by child care personnel
28 resulted in the child's great bodily harm, permanent
29 disability, permanent disfigurement, or death. Provides
30 for ranking of violations on the offense severity ranking
31 chart.