

By Senator Lynn

7-69B-04

1 A bill to be entitled
2 An act relating to child care facilities;
3 amending s. 402.3055, F.S.; requiring an
4 applicant, owner, or operator of a child care
5 facility to sign an affidavit attesting to the
6 accuracy of certain information; amending s.
7 402.309, F.S.; authorizing the local licensing
8 agency or the Department of Children and Family
9 Services to issue a provisional license or
10 registration to a child care facility, family
11 day care home, or large family child care home;
12 providing that a provisional license or
13 registration may not be issued unless child
14 care personnel are screened according to law;
15 requiring the department to adopt rules for
16 issuing, suspending, and revoking provisional
17 licenses and registrations; amending s.
18 402.310, F.S.; providing that an increased
19 administrative fine may be imposed in addition
20 to or in lieu of other disciplinary actions;
21 authorizing the department or local licensing
22 agencies to convert a license or registration
23 to probation status for violation of certain
24 laws and rules; authorizing the department or
25 local licensing agencies to apply disciplinary
26 actions to registered family day care homes;
27 directing the department to adopt rules
28 establishing grounds for imposing disciplinary
29 actions for violations of certain laws and
30 rules; directing the department to adopt rules
31 to create a uniform system of procedures to use

1 for disciplinary actions; creating s. 402.3105,
2 F.S.; requiring the department to establish a
3 database of information concerning violations,
4 citations, and penalties imposed against child
5 care facilities, family day care homes, and
6 large family child care homes licensed by or
7 registered with the department; requiring the
8 department to consult with the State Technology
9 Office; specifying database capabilities and
10 the uses of information contained therein;
11 providing that implementation is not contingent
12 upon an appropriation; repealing ss.
13 402.313(1)(b) and 402.3131(1)(a), F.S.;
14 abolishing the authority of the department or
15 local licensing agency to impose an
16 administrative fine for a family care home or a
17 large family child care home; providing an
18 effective date.

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

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22 Section 1. Section 402.3055, Florida Statutes, is
23 amended to read:

24 402.3055 Child care personnel requirements.--

25 (1) REQUIREMENTS FOR CHILD CARE PERSONNEL.--

26 (a) The department or local licensing agency shall
27 require that the application for a child care license contain
28 a question that specifically asks the applicant, owner, or
29 operator if he or she has ever had a license denied, revoked,
30 or suspended in any state or jurisdiction or has been the
31 subject of a disciplinary action or been fined while employed

1 in a child care facility. The applicant, owner, or operator
2 shall sign an affidavit attesting ~~attest~~ to the accuracy of
3 the information requested under penalty of perjury.

4 1. If the applicant, owner, or operator admits that he
5 or she has been a party in such action, the department or
6 local licensing agency shall review the nature of the
7 suspension, revocation, disciplinary action, or fine before
8 granting the applicant a license to operate a child care
9 facility.

10 2. If the department or local licensing agency
11 determines as a ~~the~~ result of the ~~such~~ review that it is not
12 in the best interest of the state or local jurisdiction for
13 the applicant to be licensed, a license shall not be granted.

14 (b) The child care facility employer shall require
15 that the application for a child care personnel position
16 contain a question that specifically asks the applicant if he
17 or she has ever worked in a facility that has had a license
18 denied, revoked, or suspended in this or any other state or
19 ~~jurisdiction~~ or if the applicant has been the subject of a
20 disciplinary action or been fined while he or she was employed
21 in a child care facility. The applicant shall attest to the
22 accuracy of the information requested under penalty of
23 perjury. If the applicant admits that he or she has been a
24 party in such action, the employer shall review the nature of
25 the denial, suspension, revocation, disciplinary action, or
26 fine before the applicant is hired.

27 (2) EXCLUSION FROM OWNING, OPERATING, OR BEING
28 EMPLOYED BY A CHILD CARE FACILITY OR OTHER CHILD CARE PROGRAM;
29 HEARINGS PROVIDED.--

30 (a) The department or local licensing agency shall
31 deny, suspend, or revoke a license or pursue other remedies

1 provided in s. 402.310, s. 402.312, or s. 402.319 in addition
2 to or in lieu of denial, suspension, or revocation for failure
3 to comply with this section. The disciplinary actions taken
4 ~~determination to be made~~ by the department or the local
5 licensing agency and the procedure for hearing for applicants
6 and licensees shall be in accordance with s. 402.310.

7 (b) When the department or the local licensing agency
8 has reasonable cause to believe that grounds for denial or
9 termination of employment exist, it shall notify, in writing,
10 the applicant, licensee, or other child care program and the
11 child care personnel affected, stating the specific grounds
12 indicating ~~record which indicates~~ noncompliance with the
13 standards in s. 402.305(2).

14 (c) When the department is the agency initiating the
15 allegations of ~~statement regarding~~ noncompliance, the
16 procedures established for hearing under chapter 120 shall be
17 available to the applicant, licensee, or other child care
18 program and to the affected child care personnel, in order to
19 present evidence relating either to the accuracy of the basis
20 of exclusion or to the denial of an exemption from
21 disqualification.

22 (d) When a local licensing agency is the agency
23 initiating the allegations of ~~statement regarding~~
24 noncompliance of an employee with the standards contained in
25 s. 402.305(2), the employee, applicant, licensee, or other
26 child care program has 15 days from receipt of the ~~time of~~
27 written notification of the agency's finding of noncompliance
28 to make a written request for a hearing. If a written request
29 for a hearing is not received in that time, the permanent
30 employee, applicant, licensee, or other child care program is
31 presumed to accept the finding of noncompliance.

1 (e) If a request for a hearing is made to the local
2 licensing agency, a hearing shall be held within 30 days and
3 shall be conducted by an individual designated by the county
4 commission.

5 (f) An employee, applicant, licensee, or other child
6 care program shall have the right to appeal a finding of the
7 local licensing agency to a representative of the department.
8 Any required hearing shall be held in the county in which the
9 permanent employee is employed. The hearing shall be conducted
10 in accordance with the provisions of chapter 120.

11 (g) Refusal on the part of an applicant or licensee to
12 dismiss child care personnel who have been found to be in
13 noncompliance with personnel standards of s. 402.305(2) shall
14 result in automatic denial or revocation of the license in
15 addition to any other remedies pursued by the department or
16 local licensing agency.

17 Section 2. Section 402.309, Florida Statutes, is
18 amended to read:

19 402.309 Provisional license or registration.--

20 (1) The local licensing agency or the department,
21 whichever is authorized to license child care facilities in a
22 county, may issue a provisional license for child care
23 facilities, family day care homes, or large family child care
24 homes, or a provisional registration for family day care homes
25 to applicants for an initial ~~a~~ license or registration or to
26 licensees or registrants seeking a renewal who are unable to
27 meet ~~conform to~~ all the standards provided for in ss.
28 402.301-402.319.

29 (2) A ~~No~~ provisional license or registration may not
30 be issued unless the operator or owner makes adequate
31 provisions for the health and safety of the child. A

1 provisional license may be issued for a child care facility if
2 all of the screening materials have been timely submitted.†
3 ~~however,~~ A provisional license or registration may not be
4 issued unless the child care facility, family day care home,
5 or large family child care home is in compliance with the
6 requirements for screening of child care personnel in ss.
7 402.305, ~~and~~ 402.3055, 402.313, and 402.3131, respectively.

8 (3) The provisional license or registration may not
9 ~~shall in no event~~ be issued for a period in excess of 6
10 months; however, it may be renewed one time for a period not
11 in excess of 6 months under unusual circumstances beyond the
12 control of the applicant.

13 (4) The provisional license or registration may be
14 suspended or revoked if periodic inspection made by the local
15 licensing agency or the department indicates that insufficient
16 progress has been made toward compliance.

17 (5) The department shall adopt rules specifying the
18 conditions and procedures under which a provisional license or
19 registration may be issued, suspended, or revoked.

20 Section 3. Section 402.310, Florida Statutes, is
21 amended to read:

22 402.310 Disciplinary actions; hearings upon denial,
23 suspension, or revocation of license or registration;
24 administrative fines.--

25 (1)(a) The department or local licensing agency may
26 administer any of the following disciplinary sanctions for a
27 violation of any provision of ss. 402.301-402.319, or rules
28 adopted thereunder: deny, suspend, or revoke a license or

29 1. Impose an administrative fine not to exceed \$100
30 per violation, per day, for the violation of any provision of
31 ss. 402.301-402.319 or rules adopted thereunder. However, if

1 ~~where~~ the violation could or does cause death or serious harm,
2 the department or local licensing agency may impose an
3 administrative fine, not to exceed \$500 per violation per day,
4 in addition to or in lieu of any other disciplinary action
5 described in this section.

6 2. Convert a license or registration to probation
7 status and require the licensee or registrant to comply with
8 the terms of probation. A probation-status license or
9 registration may not be issued for a period in excess of 6
10 months and may not be renewed. A problem-status license or
11 registration may be suspended or revoked if periodic
12 inspection by the department or local licensing agency
13 discloses that the probation-status licensee or registrant is
14 not in compliance with the terms of probation or that the
15 probation-status licensee or registrant is not making
16 sufficient progress towards compliance with the provisions of
17 ss. 402.301-402.319.

18 3. Deny, suspend, or revoke a license or registration.

19 (b) In determining the appropriate disciplinary action
20 to be taken for a violation as provided in paragraph (a), the
21 following factors shall be considered:

22 1. The severity of the violation, including the
23 probability that death or serious harm to the health or safety
24 of any person will result or has resulted, the severity of the
25 actual or potential harm, and the extent to which the
26 provisions of ss. 402.301-402.319 have been violated.

27 2. Actions taken by the licensee or registrant to
28 correct the violation or to remedy complaints.

29 3. Any previous violations of the licensee or
30 registrant.

31 (c) The department shall adopt rules to:

1 1. Establish the grounds under which the department
2 may deny, suspend, or revoke a license or registration or
3 place a licensee or registrant on probation status for
4 violations of ss. 402.301-402.319.

5 2. Establish a uniform system of procedures to impose
6 disciplinary sanctions for violations of ss. 402.301-402-319.
7 The uniform system of procedures must provide for the
8 consistent application of disciplinary actions across
9 districts and a progressively increasing level of penalties
10 from predisciplinary actions, such as efforts to assist
11 licensees or registrants to correct the statutory or
12 regulatory violations, to severe disciplinary sanctions for
13 actions that jeopardize the health and safety of children,
14 such as for the deliberate misuse of medications. The
15 department shall implement this subparagraph on July 1, 2004,
16 and the implementation is not contingent upon a specific
17 appropriation.

18 (d) The disciplinary sanctions set forth in this
19 section apply to licensed child care facilities, licensed
20 large family child care homes, and licensed or registered
21 family day care homes.

22 (2) When the department has reasonable cause to
23 believe that grounds exit for the denial, suspension, or
24 revocation of a license or registration; the conversion of a
25 license or registration to probation status;or the imposition
26 of an administrative fine ~~exist~~, it shall determine the matter
27 in accordance with procedures prescribed in chapter 120. When
28 the local licensing agency has reasonable cause to believe
29 that grounds exist for the denial, suspension, or revocation
30 of a license or registration; the conversion of a license or
31 registration to probation status;or the imposition of an

1 administrative fine ~~exist~~, it shall notify the applicant,
2 registrant, or licensee in writing, stating the grounds upon
3 which the license or registration is being denied, suspended,
4 or revoked or an administrative fine is being imposed. If the
5 applicant, registrant, or licensee makes no written request
6 for a hearing to the local licensing agency within 15 days
7 after ~~from~~ receipt of the ~~such~~ notice, the license or
8 registration shall be deemed denied, suspended, or revoked;
9 the license or registration shall be converted to probation
10 status; or an administrative fine shall be imposed.

11 (3) If a request for a hearing is made to the local
12 licensing agency, a hearing shall be held within 30 days and
13 shall be conducted by an individual designated by the county
14 commission.

15 (4) An applicant, registrant, or licensee shall have
16 the right to appeal a decision of the local licensing agency
17 to a representative of the department. Any required hearing
18 shall be held in the county in which the child care facility,
19 family day care home, or large family child care home is being
20 operated or is to be established. The hearing shall be
21 conducted in accordance with the provisions of chapter 120.

22 Section 4. Section 402.3105, Florida Statutes, is
23 created to read:

24 402.3105 Central database on violations, citations,
25 and penalties imposed against child care facilities, family
26 day care homes, and large family child care homes.--

27 (1) The department, in consultation with the state
28 technology office, shall establish and maintain a central
29 database to record and compile all information from the
30 service districts concerning violations, citations, and
31 penalties imposed against child care facilities, family day

1 care homes, and large family child care homes regulated by or
2 registered with the department. The department shall develop
3 the central database pursuant to chapter 282 and shall
4 administer, operate, and maintain the database following the
5 policies and procedures of the state technology office.

6 (2) The department shall retain information in the
7 database in order to monitor and evaluate the consistency and
8 effectiveness of the service districts' investigations and the
9 enforcement of compliance with licensing and registration
10 requirements by child care facilities, family day care homes,
11 and large family child care homes. The database must have the
12 capability to produce statistical reports of patterns of
13 violations, citations, and penalties, including the classes
14 and types of violations, and any actions taken to suspend or
15 revoke the license or registration of a child care facility,
16 family day care home, or large family child care home.

17 (3) The central database shall be an informational
18 resource for evaluating child care facilities, family day care
19 homes, and large family child care homes for license or
20 registration renewals but may not be used for employment
21 screening. The database information is open to the public
22 subject to the provisions of chapter 119.

23 (4) The department shall implement this section
24 beginning on July 1, 2004, and the implementation is not
25 contingent upon a specific appropriation.

26 Section 5. Paragraph (b) of subsection (1) of section
27 402.313 and paragraph (a) of subsection (1) of section
28 402.3131, Florida Statutes, are repealed.

29 Section 6. This act shall take effect July 1, 2004.
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SENATE SUMMARY

Requires an applicant, owner, or operator of a child care facility to sign an affidavit attesting to the accuracy of certain information. Authorizes the local licensing agency or the Department of Children and Family Services to issue a provisional license or registration to a child care facility, family day care home, or large family child care home under certain circumstances. Provides that an increased administrative fine may be imposed in addition to or in lieu of other disciplinary actions. Authorizes the department or local licensing agencies to convert a license or registration to a probation status for violation of certain laws and rules. Directs the department to adopt rules establishing grounds for imposing disciplinary actions and procedures to use for disciplinary actions. Requires the department to establish a database of information relating to violations, citations, and penalties imposed against child care facilities, family day care homes, and large family child care homes licensed by or registered with by the state. (See bill for details.)