

By the Committee on Children and Families; and Senator Lynn

300-1083A-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; authorizing
7 the Department of Children and Family Services
8 to apply certain requirements for personnel in
9 child care facilities to personnel in family
10 day care homes and large family child care
11 homes; amending s. 402.308, F.S.; requiring
12 family day care homes that are required to be
13 licensed and large family child care homes to
14 have a license that is renewed annually;
15 authorizing the Department of Children and
16 Family Services to apply the specified
17 procedures for administering a license to
18 family day care homes and large family child
19 care homes; amending s. 402.309, F.S.;
20 authorizing the local licensing agency or the
21 Department of Children and Family Services to
22 issue a provisional license or registration to
23 a child care facility, family day care home, or
24 large family child care home; providing that a
25 provisional license or registration may not be
26 issued unless child care personnel are screened
27 according to law; requiring the department to
28 adopt rules for issuing, suspending, and
29 revoking provisional licenses and
30 registrations; amending s. 402.310, F.S.;
31 providing that an increased administrative fine

1 may be imposed in addition to or in lieu of
2 other disciplinary actions; authorizing the
3 department or local licensing agencies to
4 convert a license or registration to probation
5 status for violation of certain laws and rules;
6 authorizing the department or local licensing
7 agencies to apply disciplinary actions to
8 registered family day care homes; directing the
9 department to adopt rules establishing grounds
10 for imposing disciplinary actions for
11 violations of certain laws and rules; directing
12 the department to adopt rules to create a
13 uniform system of procedures to use for
14 disciplinary actions; creating s. 402.3105,
15 F.S.; requiring the department to establish a
16 database of information concerning violations,
17 citations, and penalties imposed against child
18 care facilities, family day care homes, and
19 large family child care homes licensed by or
20 registered with the department and local
21 licensing agencies; requiring the department to
22 consult with the State Technology Office;
23 specifying database capabilities and the uses
24 of information contained therein; providing
25 that implementation is not contingent upon an
26 appropriation; repealing ss. 402.313(1)(b) and
27 402.3131(1)(a), F.S.; abolishing the authority
28 of the department or local licensing agency to
29 impose an administrative fine for a family care
30 home or a large family child care home;
31 providing an effective date.

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

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3 Section 1. Section 402.3055, Florida Statutes, is
4 amended to read:

5 402.3055 Child care personnel requirements.--

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

7 (a) The department or local licensing agency shall
8 require that the application for a license to operate a child
9 care facility, family day care home, or large family child
10 care home ~~license~~ contain a question that specifically asks
11 the applicant, owner, or operator if he or she has ever had a
12 license denied, revoked, or suspended in any state or
13 jurisdiction or has been the subject of a disciplinary action
14 or been fined while employed in a child care facility, family
15 day care home, or large family child care home. The applicant,
16 owner, or operator shall sign an affidavit attesting ~~attest~~ to
17 the accuracy of the information requested under penalty of
18 perjury.

19 1. If the applicant, owner, or operator admits that he
20 or she has been a party in such action, the department or
21 local licensing agency shall review the nature of the
22 suspension, revocation, disciplinary action, or fine before
23 granting the applicant a license to operate a child care
24 facility, family day care home, or large family child care
25 home.

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

30 (b) The employer of a child care facility, family day
31 care home, or large family child care home ~~employer~~ shall

1 require that the application for a child care personnel
2 position contain a question that specifically asks the
3 applicant if he or she has ever worked in a facility or home
4 that has had a license denied, revoked, or suspended in this
5 or any other state or jurisdiction or if the applicant has
6 been the subject of a disciplinary action or been fined while
7 he or she was employed in a child care facility or home. The
8 applicant shall attest to the accuracy of the information
9 requested under penalty of perjury. If the applicant admits
10 that he or she has been a party in such action, the employer
11 shall review the nature of the denial, suspension, revocation,
12 disciplinary action, or fine before the applicant is hired.

13 (2) EXCLUSION FROM OWNING, OPERATING, OR BEING
14 EMPLOYED BY A CHILD CARE FACILITY OR OTHER CHILD CARE PROGRAM;
15 HEARINGS PROVIDED.--

16 (a) The department or local licensing agency shall
17 deny, suspend, or revoke a license or pursue other remedies
18 provided in s. 402.310, s. 402.312, or s. 402.319 in addition
19 to or in lieu of denial, suspension, or revocation for failure
20 to comply with this section. The disciplinary actions taken
21 ~~determination to be made~~ by the department or the local
22 licensing agency and the procedure for hearing for applicants
23 and licensees shall be in accordance with s. 402.310.

24 (b) When the department or the local licensing agency
25 has reasonable cause to believe that grounds for denial or
26 termination of employment exist, it shall notify, in writing,
27 the applicant, licensee, or other child care program and the
28 child care personnel affected, stating the specific grounds
29 indicating record which indicates noncompliance with the
30 standards in s. 402.305(2).

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1 (c) When the department is the agency initiating the
2 allegations of statement regarding noncompliance, the
3 procedures established for hearing under chapter 120 shall be
4 available to the applicant, licensee, or other child care
5 program and to the affected child care personnel, in order to
6 present evidence relating either to the accuracy of the basis
7 of exclusion or to the denial of an exemption from
8 disqualification.

9 (d) When a local licensing agency is the agency
10 initiating the allegations of statement regarding
11 noncompliance of an employee with the standards contained in
12 s. 402.305(2), the employee, applicant, licensee, or other
13 child care program has 15 days from receipt of the time of
14 written notification of the agency's finding of noncompliance
15 to make a written request for a hearing. If a written request
16 for a hearing is not received in that time, the permanent
17 employee, applicant, licensee, or other child care program is
18 presumed to accept the finding of noncompliance.

19 (e) If a request for a hearing is made to the local
20 licensing agency, a hearing shall be held within 30 days and
21 shall be conducted by an individual designated by the county
22 commission.

23 (f) An employee, applicant, licensee, or other child
24 care program shall have the right to appeal a finding of the
25 local licensing agency to a representative of the department.
26 Any required hearing shall be held in the county in which the
27 permanent employee is employed. The hearing shall be conducted
28 in accordance with the provisions of chapter 120.

29 (g) Refusal on the part of an applicant or licensee to
30 dismiss child care personnel who have been found to be in
31 noncompliance with personnel standards of s. 402.305(2) shall

1 result in automatic denial or revocation of the license in
2 addition to any other remedies pursued by the department or
3 local licensing agency.

4 Section 2. Subsections (1) and (3) of section 402.308,
5 Florida Statutes, are amended to read:

6 402.308 Issuance of license.--

7 (1) ANNUAL LICENSING.--Every child care facility,
8 family day care home requiring licensure, or large family
9 child care home in the state shall have a license that ~~which~~
10 shall be renewed annually.

11 (3) STATE ADMINISTRATION OF LICENSING.--In any county
12 in which the department has the authority to issue licenses,
13 the following procedures shall be applied:

14 (a) Application for a license or for a renewal of a
15 license to operate a child care facility, family day care
16 home, or large family child care home shall be made in the
17 manner and on the forms prescribed by the department. The
18 applicant's social security number shall be included on the
19 form submitted to the department. Pursuant to the federal
20 Personal Responsibility and Work Opportunity Reconciliation
21 Act of 1996, each applicant is required to provide his or her
22 social security number in accordance with this section.
23 Disclosure of social security numbers obtained through this
24 requirement shall be limited to the purpose of administration
25 of the Title IV-D program for child support enforcement.

26 (b) Prior to the renewal of a license, the department
27 shall reexamine the child care facility, family day care home,
28 or large family child care home, including in that process the
29 examination of the premises and those records of the facility
30 or home as required under s. 402.305, to determine that
31 minimum standards for licensing continue to be met.

1 (c) The department shall coordinate all inspections of
2 child care facilities, family day care homes, and large family
3 child care homes. A child care provider facility is not
4 required to implement a recommendation of one agency which
5 ~~that~~ is in conflict with a recommendation of another agency if
6 such conflict arises due to uncoordinated inspections. Any
7 conflict in recommendations shall be resolved by the secretary
8 of the department within 15 days after written notice that
9 such conflict exists.

10 (d) The department shall issue or renew a license upon
11 receipt of the license fee and upon being satisfied that all
12 standards required by ss. 402.301-402.319 have been met. A
13 license may be issued if all the screening materials have been
14 timely submitted; however, a license may not be issued or
15 renewed if any of the child care personnel at the applicant
16 facility or home have failed the screening required by ss.
17 402.305(2) and 402.3055.

18 Section 3. Section 402.309, Florida Statutes, is
19 amended to read:

20 402.309 Provisional license or registration.--

21 (1) The local licensing agency or the department,
22 whichever is authorized to license child care facilities in a
23 county, may issue a provisional license for child care
24 facilities, family day care homes, or large family child care
25 homes, or a provisional registration for family day care homes
26 to applicants for an initial ~~a~~ license or registration or to
27 licensees or registrants seeking a renewal who are unable to
28 meet ~~conform to~~ all the standards provided for in ss.
29 402.301-402.319.

30 (2) A ~~No~~ provisional license or registration may not
31 be issued unless the operator or owner makes adequate

1 provisions for the health and safety of the child. A
2 provisional license may be issued for a child care facility if
3 all of the screening materials have been timely submitted. ~~+~~
4 ~~however,~~ A provisional license or registration may not be
5 issued unless the child care facility, family day care home,
6 or large family child care home is in compliance with the
7 requirements for screening of child care personnel in ss.
8 402.305, ~~and~~ 402.3055, 402.313, and 402.3131, respectively.

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

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

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

21 Section 4. Section 402.310, Florida Statutes, is
22 amended to read:

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

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

30 1. Impose an administrative fine not to exceed \$100
31 per violation, per day, for the violation of any provision of

1 ~~ss. 402.301-402.319 or rules adopted thereunder.~~ However, if
2 where the violation could or does cause death or serious harm,
3 the department or local licensing agency may impose an
4 administrative fine, not to exceed \$500 per violation per day,
5 in addition to or in lieu of any other disciplinary action
6 described in this section.

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

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

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

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

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

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

1 (c) The department shall adopt rules to:

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

6 2. Establish a uniform system of procedures to impose
7 disciplinary sanctions for violations of ss. 402.301-402-319.
8 The uniform system of procedures must provide for the
9 consistent application of disciplinary actions across
10 districts and a progressively increasing level of penalties
11 from predisciplinary actions, such as efforts to assist
12 licensees or registrants to correct the statutory or
13 regulatory violations, to severe disciplinary sanctions for
14 actions that jeopardize the health and safety of children,
15 such as for the deliberate misuse of medications. The
16 department shall implement this subparagraph on January 1,
17 2005, and the implementation is not contingent upon a specific
18 appropriation.

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

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

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

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

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

23 Section 5. Section 402.3105, Florida Statutes, is
24 created to read:

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

28 (1) The department, in consultation with the state
29 technology office, shall establish and maintain a central
30 database to record and compile all information from the
31 service districts and local licensing agencies concerning

1 violations, citations, and penalties imposed against child
2 care facilities, family day care homes, and large family child
3 care homes regulated by or registered with the department or
4 local licensing agency. The department shall develop the
5 central database pursuant to chapter 282 and shall administer,
6 operate, and maintain the database following the policies and
7 procedures of the state technology office.

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

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

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

29 Section 6. Paragraph (b) of subsection (1) of section
30 402.313 and paragraph (a) of subsection (1) of section
31 402.3131, Florida Statutes, are repealed.

1 Section 7. This act shall take effect July 1, 2004.

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3 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
4 COMMITTEE SUBSTITUTE FOR
5 s0510

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7 * Authorizes the Department of Children and Families to
8 apply certain licensure application and renewal
9 requirements to family day care homes required to be
10 licensed and large family child care homes.

11 * Clarifies that the department's determination of progress
12 toward compliance with the requirements for registered
13 family day care homes when a provisional license has been
14 issued is through a review instead of an inspection.

15 * Extends the deadline for the department to implement the
16 uniform system of disciplinary actions.

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