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1 A bill to be entitled

2 An act relating to child care facilities; amending s.
3 402.3055, F.S.; requiring an applicant, owner, or operator
4 of a child care facility to sign an affidavit attesting to
5 the accuracy of certain information; authorizing the
6 Department of Children and Family Services to apply
7 certain requirements for personnel in child care
8 facilities to personnel in family day care homes and large
9 family child care homes; amending s. 402.308, F.S.;
10 requiring family day care homes that are required to be
11 licensed and large family child care homes to have a
12 license that is renewed annually; authorizing the
13 Department of Children and Family Services to apply the
14 specified procedures for administering a license to family
15 day care homes and large family child care homes; amending
16 s. 402.309, F.S.; authorizing the local licensing agency
17 or the Department of Children and Family Services to issue
18 a provisional license or registration to a child care
19 facility, family day care home, or large family child care
20 home; providing that a provisional license or registration
21 may not be issued unless child care personnel are screened
22 according to law; requiring the department to adopt rules
23 for issuing, suspending, and revoking provisional licenses
24 and registrations; amending s. 402.310, F.S.; providing
25 that an increased administrative fine may be imposed in
26 addition to or in lieu of other disciplinary actions;
27 authorizing the department or local licensing agencies to
28 convert a license or registration to probation status for
29 violation of certain laws and rules; authorizing the

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30 department or local licensing agencies to apply
 31 disciplinary actions to registered family day care homes;
 32 directing the department to adopt rules establishing
 33 grounds for imposing disciplinary actions for violations
 34 of certain laws and rules; directing the department to
 35 adopt rules to create a uniform system of procedures to
 36 use for disciplinary actions; creating s. 402.3105, F.S.;
 37 requiring the department to establish a database of
 38 information concerning violations, citations, and
 39 penalties imposed against child care facilities, family
 40 day care homes, and large family child care homes licensed
 41 by or registered with the department and local licensing
 42 agencies; requiring the department to consult with the
 43 State Technology Office; specifying database capabilities
 44 and the uses of information contained therein; providing
 45 that implementation is not contingent upon an
 46 appropriation; repealing ss. 402.313(1)(b) and
 47 402.3131(1)(a), F.S.; abolishing the authority of the
 48 department or local licensing agency to impose an
 49 administrative fine for a family care home or a large
 50 family child care home; providing an effective date.

51
 52 Be It Enacted by the Legislature of the State of Florida:

53
 54 Section 1. Section 402.3055, Florida Statutes, is amended
 55 to read:

56 402.3055 Child care personnel requirements.--
 57 (1) REQUIREMENTS FOR CHILD CARE PERSONNEL.--

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58 (a) The department or local licensing agency shall require
 59 that the application for a license to operate a child care
 60 facility, family day care home, or large family child care home
 61 ~~license~~ contain a question that specifically asks the applicant,
 62 owner, or operator if he or she has ever had a license denied,
 63 revoked, or suspended in any state or jurisdiction or has been
 64 the subject of a disciplinary action or been fined while
 65 employed in a child care facility, family day care home, or
 66 large family child care home. The applicant, owner, or operator
 67 shall sign an affidavit attesting ~~attest~~ to the accuracy of the
 68 information requested under penalty of perjury.

69 1. If the applicant, owner, or operator admits that he or
 70 she has been a party in such action, the department or local
 71 licensing agency shall review the nature of the suspension,
 72 revocation, disciplinary action, or fine before granting the
 73 applicant a license to operate a child care facility, family day
 74 care home, or large family child care home.

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

79 (b) The employer of a child care facility, family day care
 80 home, or large family child care home ~~employer~~ shall require
 81 that the application for a child care personnel position contain
 82 a question that specifically asks the applicant if he or she has
 83 ever worked in a facility or home that has had a license denied,
 84 revoked, or suspended in this or any other state ~~or jurisdiction~~
 85 or if the applicant has been the subject of a disciplinary
 86 action or been fined while he or she was employed in a child

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87 care facility or home. The applicant shall attest to the
 88 accuracy of the information requested under penalty of perjury.
 89 If the applicant admits that he or she has been a party in such
 90 action, the employer shall review the nature of the denial,
 91 suspension, revocation, disciplinary action, or fine before the
 92 applicant is hired.

93 (2) EXCLUSION FROM OWNING, OPERATING, OR BEING EMPLOYED BY
 94 A CHILD CARE FACILITY OR OTHER CHILD CARE PROGRAM; HEARINGS
 95 PROVIDED.--

96 (a) The department or local licensing agency shall deny,
 97 suspend, or revoke a license or pursue other remedies provided
 98 in s. 402.310, s. 402.312, or s. 402.319 in addition to or in
 99 lieu of denial, suspension, or revocation for failure to comply
 100 with this section. The disciplinary actions taken ~~determination~~
 101 ~~to be made~~ by the department or the local licensing agency and
 102 the procedure for hearing for applicants and licensees shall be
 103 in accordance with s. 402.310.

104 (b) When the department or the local licensing agency has
 105 reasonable cause to believe that grounds for denial or
 106 termination of employment exist, it shall notify, in writing,
 107 the applicant, licensee, or other child care program and the
 108 child care personnel affected, stating the specific grounds
 109 indicating ~~record which indicates~~ noncompliance with the
 110 standards in s. 402.305(2).

111 (c) When the department is the agency initiating the
 112 allegations of ~~statement regarding~~ noncompliance, the procedures
 113 established for hearing under chapter 120 shall be available to
 114 the applicant, licensee, or other child care program and to the
 115 affected child care personnel, in order to present evidence

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116 relating either to the accuracy of the basis of exclusion or to
 117 the denial of an exemption from disqualification.

118 (d) When a local licensing agency is the agency initiating
 119 the allegations of ~~statement regarding~~ noncompliance of an
 120 employee with the standards contained in s. 402.305(2), the
 121 employee, applicant, licensee, or other child care program has
 122 15 days from receipt of ~~the time of~~ written notification of the
 123 agency's finding of noncompliance to make a written request for
 124 a hearing. If a written request for a hearing is not received in
 125 that time, the permanent employee, applicant, licensee, or other
 126 child care program is presumed to accept the finding of
 127 noncompliance.

128 (e) If a request for a hearing is made to the local
 129 licensing agency, a hearing shall be held within 30 days and
 130 shall be conducted by an individual designated by the county
 131 commission.

132 (f) An employee, applicant, licensee, or other child care
 133 program shall have the right to appeal a finding of the local
 134 licensing agency to a representative of the department. Any
 135 required hearing shall be held in the county in which the
 136 permanent employee is employed. The hearing shall be conducted
 137 in accordance with the provisions of chapter 120.

138 (g) Refusal on the part of an applicant or licensee to
 139 dismiss child care personnel who have been found to be in
 140 noncompliance with personnel standards of s. 402.305(2) shall
 141 result in automatic denial or revocation of the license in
 142 addition to any other remedies pursued by the department or
 143 local licensing agency.

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

146 402.308 Issuance of license.--

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

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

154 (a) Application for a license or for a renewal of a
 155 license to operate a child care facility, family day care home,
 156 or large family child care home shall be made in the manner and
 157 on the forms prescribed by the department. The applicant's
 158 social security number shall be included on the form submitted
 159 to the department. Pursuant to the federal Personal
 160 Responsibility and Work Opportunity Reconciliation Act of 1996,
 161 each applicant is required to provide his or her social security
 162 number in accordance with this section. Disclosure of social
 163 security numbers obtained through this requirement shall be
 164 limited to the purpose of administration of the Title IV-D
 165 program for child support enforcement.

166 (b) Prior to the renewal of a license, the department
 167 shall reexamine the child care facility, family day care home,
 168 or large family child care home, including in that process the
 169 examination of the premises and those records of the facility or
 170 home as required under s. 402.305, to determine that minimum
 171 standards for licensing continue to be met.

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172 (c) The department shall coordinate all inspections of
 173 child care facilities, family day care homes, and large family
 174 child care homes. A child care provider facility is not required
 175 to implement a recommendation of one agency which ~~that~~ is in
 176 conflict with a recommendation of another agency if such
 177 conflict arises due to uncoordinated inspections. Any conflict
 178 in recommendations shall be resolved by the secretary of the
 179 department within 15 days after written notice that such
 180 conflict exists.

181 (d) The department shall issue or renew a license upon
 182 receipt of the license fee and upon being satisfied that all
 183 standards required by ss. 402.301-402.319 have been met. A
 184 license may be issued if all the screening materials have been
 185 timely submitted; however, a license may not be issued or
 186 renewed if any of the child care personnel at the applicant
 187 facility or home have failed the screening required by ss.
 188 402.305(2) and 402.3055.

189 Section 3. Section 402.309, Florida Statutes, is amended
 190 to read:

191 402.309 Provisional license or registration.--

192 (1) The local licensing agency or the department,
 193 whichever is authorized to license child care facilities in a
 194 county, may issue a provisional license for child care
 195 facilities, family day care homes, or large family child care
 196 homes, or a provisional registration for family day care homes
 197 to applicants for an initial ~~a~~ license or registration or to
 198 licensees or registrants seeking a renewal who are unable to
 199 meet ~~conform to~~ all the standards provided for in ss. 402.301-
 200 402.319.

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201 (2) ~~A No~~ provisional license or registration may not be
 202 issued unless the operator or owner makes adequate provisions
 203 for the health and safety of the child. A provisional license
 204 may be issued for a child care facility if all of the screening
 205 materials have been timely submitted. ~~however,~~ A provisional
 206 license or registration may not be issued unless the child care
 207 facility, family day care home, or large family child care home
 208 is in compliance with the requirements for screening of child
 209 care personnel in ss. 402.305, ~~and~~ 402.3055, 402.313, and
 210 402.3131, respectively.

211 (3) The provisional license or registration may not ~~shall~~
 212 ~~in no event~~ be issued for a period in excess of 6 months;
 213 however, it may be renewed one time for a period not in excess
 214 of 6 months under unusual circumstances beyond the control of
 215 the applicant.

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

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

223 Section 4. Section 402.310, Florida Statutes, is amended
 224 to read:

225 402.310 Disciplinary actions; hearings upon denial,
 226 suspension, or revocation of license or registration;
 227 administrative fines.--

228 (1)(a) The department or local licensing agency may
 229 administer any of the following disciplinary sanctions for a

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230 violation of any provision of ss. 402.301-402.319, or rules
 231 adopted thereunder: ~~deny, suspend, or revoke a license or~~

232 1. Impose an administrative fine not to exceed \$100 per
 233 violation, per day, ~~for the violation of any provision of ss.~~
 234 ~~402.301-402.319 or rules adopted thereunder.~~ However, if where
 235 the violation could or does cause death or serious harm, the
 236 department or local licensing agency may impose an
 237 administrative fine, not to exceed \$500 per violation per day,
 238 in addition to or in lieu of any other disciplinary action
 239 described in this section.

240 2. Convert a license or registration to probation status
 241 and require the licensee or registrant to comply with the terms
 242 of probation. A probation-status license or registration may not
 243 be issued for a period in excess of 6 months and may not be
 244 renewed. A probation-status license or registration may be
 245 suspended or revoked if periodic inspection by the department or
 246 local licensing agency discloses that the probation-status
 247 licensee or registrant is not in compliance with the terms of
 248 probation or that the probation-status licensee or registrant is
 249 not making sufficient progress towards compliance with the
 250 provisions of ss. 402.301-402.319.

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

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

255 1. The severity of the violation, including the
 256 probability that death or serious harm to the health or safety
 257 of any person will result or has resulted, the severity of the

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258 actual or potential harm, and the extent to which the provisions
 259 of ss. 402.301-402.319 have been violated.

260 2. Actions taken by the licensee or registrant to correct
 261 the violation or to remedy complaints.

262 3. Any previous violations of the licensee or registrant.

263 (c) The department shall adopt rules to:

264 1. Establish the grounds under which the department may
 265 deny, suspend, or revoke a license or registration or place a
 266 licensee or registrant on probation status for violations of ss.
 267 402.301-402.319.

268 2. Establish a uniform system of procedures to impose
 269 disciplinary sanctions for violations of ss. 402.301-402-319.
 270 The uniform system of procedures must provide for the consistent
 271 application of disciplinary actions across districts and a
 272 progressively increasing level of penalties from predisciplinary
 273 actions, such as efforts to assist licensees or registrants to
 274 correct the statutory or regulatory violations, to severe
 275 disciplinary sanctions for actions that jeopardize the health
 276 and safety of children, such as for the deliberate misuse of
 277 medications. The department shall implement this subparagraph on
 278 January 1, 2005, and the implementation is not contingent upon a
 279 specific appropriation.

280 (d) The disciplinary sanctions set forth in this section
 281 apply to licensed child care facilities, licensed large family
 282 child care homes, and licensed or registered family day care
 283 homes.

284 (2) When the department has reasonable cause to believe
 285 that grounds exist for the denial, suspension, or revocation of
 286 a license or registration; the conversion of a license or

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287 registration to probation status; or the imposition of an
 288 administrative fine ~~exist~~, it shall determine the matter in
 289 accordance with procedures prescribed in chapter 120. When the
 290 local licensing agency has reasonable cause to believe that
 291 grounds exist for the denial, suspension, or revocation of a
 292 license or registration; the conversion of a license or
 293 registration to probation status; or the imposition of an
 294 administrative fine ~~exist~~, it shall notify the applicant,
 295 registrant, or licensee in writing, stating the grounds upon
 296 which the license or registration is being denied, suspended, or
 297 revoked or an administrative fine is being imposed. If the
 298 applicant, registrant, or licensee makes no written request for
 299 a hearing to the local licensing agency within 15 days after
 300 ~~from~~ receipt of the ~~such~~ notice, the license or registration
 301 shall be deemed denied, suspended, or revoked; the license or
 302 registration shall be converted to probation status; or an
 303 administrative fine shall be imposed.

304 (3) If a request for a hearing is made to the local
 305 licensing agency, a hearing shall be held within 30 days and
 306 shall be conducted by an individual designated by the county
 307 commission.

308 (4) An applicant, registrant, or licensee shall have the
 309 right to appeal a decision of the local licensing agency to a
 310 representative of the department. Any required hearing shall be
 311 held in the county in which the child care facility, family day
 312 care home, or large family child care home is being operated or
 313 is to be established. The hearing shall be conducted in
 314 accordance with the provisions of chapter 120.

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315 Section 5. Section 402.3105, Florida Statutes, is created
316 to read:

317 402.3105 Central database on violations, citations, and
318 penalties imposed against child care facilities, family day care
319 homes, and large family child care homes.--

320 (1) The department, in consultation with the State
321 Technology Office, shall establish and maintain a central
322 database to record and compile all information from the service
323 districts and local licensing agencies concerning violations,
324 citations, and penalties imposed against child care facilities,
325 family day care homes, and large family child care homes
326 regulated by or registered with the department or local
327 licensing agency. The department shall develop the central
328 database pursuant to chapter 282 and shall administer, operate,
329 and maintain the database following the policies and procedures
330 of the State Technology Office.

331 (2) The department shall retain information in the
332 database in order to monitor and evaluate the consistency and
333 effectiveness of the service districts' and local licensing
334 agencies' investigations and the enforcement of compliance with
335 licensing and registration requirements by child care
336 facilities, family day care homes, and large family child care
337 homes. The database must have the capability to produce
338 statistical reports of patterns of violations, citations, and
339 penalties, including the classes and types of violations, and
340 any actions taken to suspend or revoke the license or
341 registration of a child care facility, family day care home, or
342 large family child care home.

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343 (3) The central database shall be an informational
344 resource for evaluating child care facilities, family day care
345 homes, and large family child care homes for license or
346 registration renewals but may not be used for employment
347 screening. The database information is open to the public
348 subject to the provisions of chapter 119.

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

352 Section 6. Paragraph (b) of subsection (1) of section
353 402.313 and paragraph (a) of subsection (1) of section 402.3131,
354 Florida Statutes, are repealed.

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