

By the Committee on Children and Families; and Senator Lynn

586-1798B-05

1 A bill to be entitled
2 An act relating to child care; transferring,
3 renumbering, and amending s. 402.3017, F.S.;
4 revising requirements for the Teacher Education
5 and Compensation Helps scholarship program;
6 amending s. 402.302, F.S.; redefining the term
7 "screening"; authorizing the screening of child
8 care volunteers; amending s. 402.3055, F.S.;
9 requiring an applicant, owner, or operator of a
10 child care facility to sign an affidavit
11 attesting to the accuracy of certain
12 information; authorizing the Department of
13 Children and Family Services to apply certain
14 requirements for personnel in child care
15 facilities to personnel in family day care
16 homes and large family child care homes;
17 amending s. 402.308, F.S.; requiring family day
18 care homes that are required to be licensed and
19 large family child care homes to have a license
20 that is renewed annually; authorizing the
21 Department of Children and Family Services to
22 apply the specified procedures for
23 administering a license to family day care
24 homes and large family child care homes;
25 amending s. 402.309, F.S.; authorizing the
26 local licensing agency or the Department of
27 Children and Family Services to issue a
28 provisional license or registration to a child
29 care facility, family day care home, or large
30 family child care home; providing that a
31 provisional license or registration may not be

1 issued unless child care personnel are screened
2 according to law; requiring the department to
3 adopt rules for issuing, suspending, and
4 revoking provisional licenses and
5 registrations; amending s. 402.310, F.S.;
6 providing that an increased administrative fine
7 may be imposed in addition to or in lieu of
8 other disciplinary actions; authorizing the
9 department or local licensing agencies to
10 convert a license or registration to probation
11 status for a violation of certain laws and
12 rules; authorizing the department or local
13 licensing agencies to apply disciplinary
14 actions to registered family day care homes;
15 directing the department to adopt rules
16 establishing grounds for imposing disciplinary
17 actions for violations of certain laws and
18 rules; directing the department to adopt rules
19 to create a uniform system of procedures to use
20 for disciplinary actions; creating s. 402.3105,
21 F.S.; requiring the department to establish a
22 database of information concerning violations,
23 citations, and penalties imposed against child
24 care facilities, family day care homes, and
25 large family child care homes licensed by or
26 registered with the department and local
27 licensing agencies; requiring the department to
28 consult with the State Technology Office;
29 specifying database capabilities and the uses
30 of information contained therein; providing
31 that implementation is not contingent upon an

1 appropriation; amending s. 402.313, F.S.;
2 removing conflicting provisions regarding an
3 administrative fine; requiring the adoption of
4 a rule establishing minimum standards for
5 safety; repealing s. 402.3131(1)(a), F.S.,
6 relating to the authority of the department or
7 local licensing agency to impose an
8 administrative fine against a large family
9 child care home; providing an effective date.

10

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

12

13 Section 1. Section 402.3017, Florida Statutes, is
14 transferred, renumbered as section 411.0103, Florida Statutes,
15 and amended to read:

16 411.0103 ~~402.3017~~ Teacher Education and Compensation
17 Helps (TEACH) scholarship program.--

18 (1) The Legislature finds that the level of early
19 child care teacher education and training is a key predictor
20 for determining program quality. The Legislature also finds
21 that low wages for child care workers prevent many from
22 obtaining increased training and education and contribute to
23 high turnover rates. The Legislature therefore intends to help
24 fund a program which links teacher training and education to
25 compensation and commitment to the field of early childhood
26 education.

27 (2) The Agency for Workforce Innovation ~~may Department~~
28 ~~of Children and Family Services is authorized to~~ contract for
29 the administration of the Teacher Education and Compensation
30 Helps (TEACH) scholarship program, which provides educational
31 scholarships to caregivers and administrators of early

1 childhood programs, family day care homes, and large family
2 child care homes.

3 (3) The Agency for Workforce Innovation may department
4 ~~shall~~ adopt rules under ss. 120.536(1) and 120.54 as necessary
5 to administer ~~implement~~ this section.

6 ~~(4) For the 2004 2005 fiscal year only, the Agency for~~
7 ~~Workforce Innovation shall administer this section. This~~
8 ~~subsection expires July 1, 2005.~~

9 Section 2. Subsection (13) of section 402.302, Florida
10 Statutes, is amended to read:

11 402.302 Definitions.--

12 (13) "Screening" means the act of assessing the
13 background of child care personnel and volunteers and
14 includes, but is not limited to, employment history checks,
15 local criminal records checks through local law enforcement
16 agencies, fingerprinting for all purposes and checks in this
17 subsection, statewide criminal records checks through the
18 Department of Law Enforcement, and federal criminal records
19 checks through the Federal Bureau of Investigation; ~~except~~
20 ~~that screening for volunteers included under the definition of~~
21 ~~personnel includes only local criminal records checks through~~
22 ~~local law enforcement agencies for current residence and~~
23 ~~residence immediately prior to employment as a volunteer, if~~
24 ~~different, and statewide criminal records correspondence~~
25 ~~checks through the Department of Law Enforcement.~~

26 Section 3. Section 402.3055, Florida Statutes, is
27 amended to read:

28 402.3055 Child care personnel requirements.--

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

30 (a) The department or local licensing agency shall
31 require that the application for a license to operate a child

1 care facility, family day care home, or large family child
2 care home license contain a question that specifically asks
3 the applicant, owner, or operator if he or she has ever had a
4 license denied, revoked, or suspended in any state or
5 jurisdiction or has been the subject of a disciplinary action
6 or been fined while employed in a child care facility, family
7 day care home, or large family child care home. The applicant,
8 owner, or operator shall sign an affidavit attesting ~~attest~~ to
9 the accuracy of the information requested under penalty of
10 perjury.

11 1. If the applicant, owner, or operator admits that he
12 or she has been a party in such action, the department or
13 local licensing agency shall review the nature of the
14 suspension, revocation, disciplinary action, or fine before
15 granting the applicant a license to operate a child care
16 facility, family day care home, or large family child care
17 home.

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

22 (b) The employer of a child care facility, family day
23 care home, or large family child care home ~~employer~~ shall
24 require that the application for a child care personnel
25 position contain a question that specifically asks the
26 applicant if he or she has ever worked in a facility or home
27 that has had a license denied, revoked, or suspended in this
28 or any other state ~~or jurisdiction~~ or if the applicant has
29 been the subject of a disciplinary action or been fined while
30 he or she was employed in a child care facility or home. The
31 applicant shall attest to the accuracy of the information

1 requested under penalty of perjury. If the applicant admits
2 that he or she has been a party in such action, the employer
3 shall review the nature of the denial, suspension, revocation,
4 disciplinary action, or fine before the applicant is hired.

5 (2) EXCLUSION FROM OWNING, OPERATING, OR BEING
6 EMPLOYED BY A CHILD CARE FACILITY OR OTHER CHILD CARE PROGRAM;
7 HEARINGS PROVIDED.--

8 (a) The department or local licensing agency shall
9 deny, suspend, or revoke a license or pursue other remedies
10 provided in s. 402.310, s. 402.312, or s. 402.319 in addition
11 to or in lieu of denial, suspension, or revocation for failure
12 to comply with this section. The disciplinary actions taken
13 ~~determination to be made~~ by the department or the local
14 licensing agency and the procedure for hearing for applicants
15 and licensees shall be in accordance with s. 402.310.

16 (b) When the department or the local licensing agency
17 has reasonable cause to believe that grounds for denial or
18 termination of employment exist, it shall notify, in writing,
19 the applicant, licensee, or other child care program and the
20 child care personnel affected, stating the specific grounds
21 indicating ~~record which indicates~~ noncompliance with the
22 standards in s. 402.305(2).

23 (c) When the department is the agency initiating the
24 allegations of ~~statement regarding~~ noncompliance, the
25 procedures established for hearing under chapter 120 shall be
26 available to the applicant, licensee, or other child care
27 program and to the affected child care personnel, in order to
28 present evidence relating either to the accuracy of the basis
29 of exclusion or to the denial of an exemption from
30 disqualification.

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1 (d) When a local licensing agency is the agency
2 initiating the allegations of ~~statement regarding~~
3 noncompliance of an employee with the standards contained in
4 s. 402.305(2), the employee, applicant, licensee, or other
5 child care program has 15 days from receipt of ~~the time of~~
6 written notification of the agency's finding of noncompliance
7 to make a written request for a hearing. If a written request
8 for a hearing is not received in that time, the permanent
9 employee, applicant, licensee, or other child care program is
10 presumed to accept the finding of noncompliance.

11 (e) 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 (f) An employee, applicant, licensee, or other child
16 care program has ~~shall have~~ the right to appeal a finding of
17 the local licensing agency to a representative of the
18 department. Any required hearing shall be held in the county
19 in which the permanent employee is employed. The hearing shall
20 be conducted in accordance with ~~the provisions of~~ chapter 120.

21 (g) Refusal on the part of an applicant or licensee to
22 dismiss child care personnel who have been found to be in
23 noncompliance with personnel standards of s. 402.305(2) shall
24 result in automatic denial or revocation of the license in
25 addition to any other remedies pursued by the department or
26 local licensing agency.

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

29 402.308 Issuance of license.--

30 (1) ANNUAL LICENSING.--Every child care facility,
31 family day care home requiring licensure, or large family

1 child care home in the state shall have a license ~~that which~~
2 shall be renewed annually.

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

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

18 (b) ~~Before renewing~~ Prior to the renewal of a license,
19 the department shall reexamine the child care facility, family
20 day care home, or large family child care home, including in
21 that process the examination of the premises and those records
22 of the facility or home as required under s. 402.305, to
23 determine that minimum standards for licensing continue to be
24 met.

25 (c) The department shall coordinate all inspections of
26 child care facilities, family day care homes, and large family
27 child care homes. A child care provider facility is not
28 required to implement a recommendation of one agency which
29 ~~that~~ is in conflict with a recommendation of another agency if
30 the such conflict arises from due to uncoordinated
31 inspections. Any conflict in recommendations shall be resolved

1 by the secretary of the department within 15 days after
2 written notice that ~~the such~~ conflict exists.

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

11 Section 5. Section 402.309, Florida Statutes, is
12 amended to read:

13 402.309 Provisional license or registration.--

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

23 (2) ~~A No~~ provisional license or registration may not
24 be issued unless the operator or owner makes adequate
25 provisions for the health and safety of the child. A
26 provisional license may be issued for a child care facility if
27 all of the screening materials have been timely submitted. ~~+~~
28 ~~however,~~ A provisional license or registration may not be
29 issued unless the child care facility, family day care home,
30 or large family child care home is in compliance with the
31

1 requirements for screening of child care personnel in ss.
2 402.305, ~~and 402.3055, 402.313, and 402.3131, respectively.~~

3 (3) The provisional license or registration may not
4 ~~shall in no event~~ be issued for a period that exceeds in
5 ~~excess of~~ 6 months; however, it may be renewed one time for a
6 period that may not exceed in excess of 6 months under unusual
7 circumstances beyond the control of the applicant.

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

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

15 Section 6. Section 402.310, Florida Statutes, is
16 amended to read:

17 402.310 Disciplinary actions; hearings upon denial,
18 suspension, or revocation of license or registration;
19 administrative fines.--

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

24 1. Impose an administrative fine not to exceed \$100
25 per violation, per day, for the violation of any provision of
26 ss. 402.301-402.319 or rules adopted thereunder. However, if
27 where the violation could or does cause death or serious harm,
28 the department or local licensing agency may impose an
29 administrative fine, not to exceed \$500 per violation per day,
30 in addition to or in lieu of any other disciplinary action
31 described in this section.

1 2. Convert a license or registration to probation
2 status and require the licensee or registrant to comply with
3 the terms of probation. A probation-status license or
4 registration may not be issued for a period that exceeds 6
5 months and the license or registration may not be renewed. A
6 probation-status license or registration may be suspended or
7 revoked if periodic inspection by the department or local
8 licensing agency finds that the probation-status licensee or
9 registrant is not in compliance with the terms of probation or
10 that the probation-status licensee or registrant is not making
11 sufficient progress towards compliance with ss.
12 402.301-402.319.

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

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

17 1. The severity of the violation, including the
18 probability that death or serious harm to the health or safety
19 of any person will result or has resulted, the severity of the
20 actual or potential harm, and the extent to which the
21 provisions of ss. 402.301-402.319 have been violated.

22 2. Actions taken by the licensee or registrant to
23 correct the violation or to remedy complaints.

24 3. Any previous violations of the licensee or
25 registrant.

26 (c) The department shall adopt rules to:

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

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1 2. Establish a uniform system of procedures to impose
2 disciplinary sanctions for violations of ss. 402.301-402-319.
3 The uniform system of procedures must provide for the
4 consistent application of disciplinary actions across
5 districts and a progressively increasing level of penalties
6 from predisciplinary actions, such as efforts to assist
7 licensees or registrants to correct the statutory or
8 regulatory violations, to severe disciplinary sanctions for
9 actions that jeopardize the health and safety of children,
10 such as for the deliberate misuse of medications. The
11 department shall implement this subparagraph on January 1,
12 2006, and the implementation is not contingent upon a specific
13 appropriation.

14 (d) The disciplinary sanctions set forth in this
15 section apply to licensed child care facilities, licensed
16 large family child care homes, and licensed or registered
17 family day care homes.

18 (2) When the department has reasonable cause to
19 believe that grounds exist for the denial, suspension, or
20 revocation of a license or registration; the conversion of a
21 license or registration to probation status; or the imposition
22 of an administrative fine ~~exist~~, it shall determine the matter
23 in accordance with procedures prescribed in chapter 120. When
24 the local licensing agency has reasonable cause to believe
25 that grounds exist for the denial, suspension, or revocation
26 of a license or registration; the conversion of a license or
27 registration to probation status; or the imposition of an
28 administrative fine ~~exist~~, it shall notify the applicant,
29 registrant, or licensee in writing, stating the grounds upon
30 which the license or registration is being denied, suspended,
31 or revoked or an administrative fine is being imposed. If the

1 applicant, registrant, or licensee makes no written request
2 for a hearing to the local licensing agency within 15 days
3 ~~after from~~ receipt of ~~the such~~ notice, the license or
4 registration shall be deemed denied, suspended, or revoked;
5 the license or registration shall be converted to probation
6 status; or an administrative fine shall be imposed.

7 (3) If a request for a hearing is made to the local
8 licensing agency, a hearing shall be held within 30 days and
9 shall be conducted by an individual designated by the county
10 commission.

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

19 Section 7. Section 402.3105, Florida Statutes, is
20 created to read:

21 402.3105 Central database on violations, citations,
22 and penalties imposed against child care facilities, family
23 day care homes, and large family child care homes.--

24 (1) The department, in consultation with the state
25 technology office, shall establish and maintain a central
26 database to record and compile all information from the
27 service districts and local licensing agencies concerning
28 violations, citations, and penalties imposed against child
29 care facilities, family day care homes, and large family child
30 care homes regulated by or registered with the department or
31 local licensing agency. The department shall develop the

1 central database under chapter 282 and shall administer,
2 operate, and maintain the database following the policies and
3 procedures of the state technology office.

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

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

22 (4) The department shall implement this section
23 beginning on July 1, 2005, and the implementation is not
24 contingent upon a specific appropriation.

25 Section 8. Subsections (1) and (13) of section
26 402.313, Florida Statutes, are amended to read:

27 402.313 Family day care homes.--

28 (1) Family day care homes shall be licensed under this
29 act if they are presently being licensed under an existing
30 county licensing ordinance, ~~if they are participating in the~~
31 ~~subsidized child care program,~~ or if the board of county

1 commissioners passes a resolution that family day care homes
2 be licensed. ~~If no county authority exists for the licensing~~
3 ~~of a family day care home, the department shall have the~~
4 ~~authority to license family day care homes under contract for~~
5 ~~the purchase of service system in the subsidized child care~~
6 ~~program.~~

7 (a) If not subject to license, family day care homes
8 shall register annually with the department, providing the
9 following information:

- 10 1. The name and address of the home.
- 11 2. The name of the operator.
- 12 3. The number of children served.
- 13 4. Proof of a written plan to provide at least one
14 other competent adult to be available to substitute for the
15 operator in an emergency. This plan shall include the name,
16 address, and telephone number of the designated substitute.
- 17 5. Proof of screening and background checks.
- 18 6. Proof of successful completion of the 30-hour
19 training course, as evidenced by passage of a competency
20 examination, which shall include:
 - 21 a. State and local rules and regulations that govern
22 child care.
 - 23 b. Health, safety, and nutrition.
 - 24 c. Identifying and reporting child abuse and neglect.
 - 25 d. Child development, including typical and atypical
26 language development; and cognitive, motor, social, and
27 self-help skills development.
 - 28 e. Observation of developmental behaviors, including
29 using a checklist or other similar observation tools and
30 techniques to determine a child's developmental level.

1 f. Specialized areas, including early literacy and
2 language development of children from birth to 5 years of age,
3 as determined by the department, for owner-operators of family
4 day care homes.

5 7. Proof that immunization records are kept current.

6 8. Proof of completion of the required continuing
7 education units or clock hours.

8 ~~(b) The department or local licensing agency may~~
9 ~~impose an administrative fine, not to exceed \$100, for failure~~
10 ~~to comply with licensure or registration requirements.~~

11 ~~(b)(c)~~ A family day care home that is not required to
12 be licensed under this subsection ~~participating in the~~
13 ~~subsidized child care program~~ may volunteer to be licensed
14 ~~under the provisions of this act.~~

15 ~~(c)(d)~~ The department may provide technical assistance
16 to counties and family day care home providers to enable
17 counties and family day care providers to achieve compliance
18 with family day care homes standards.

19 (13) The department shall adopt a rule establishing,
20 ~~by rule, establish~~ minimum standards for family day care homes
21 that are required to be licensed by county licensing ordinance
22 or county licensing resolution or that voluntarily choose to
23 be licensed. The standards should include requirements for
24 staffing, training, maintenance of immunization records,
25 minimum health and safety standards, reduced standards for the
26 regulation of child care during evening hours by
27 municipalities and counties, and enforcement of standards.

28 Section 9. Paragraph (a) of subsection (1) of section
29 402.3131, Florida Statutes, is repealed.

30 Section 10. This act shall take effect July 1, 2005.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 1600
4 Clarifies statutory provisions relating to child care
5 regulation. It extends the current requirements for licensure
6 and renewal of licenses of child care facilities to large
7 family child care homes and to those other family day care
8 homes which are already required to be licensed.
9 Strengthens the enforcement authority of the licensing
10 agencies over child care providers by authorizing the issuance
11 of provisional licenses to large family child care homes and
12 family day care homes required to be licensed. It allows
13 provisional registration for those family day care homes which
14 are not required to be licensed. It provides for revocation of
15 the provisional licenses and registrations.
16 Sets out a range of disciplinary actions available to
17 enforcement authorities and makes those actions applicable to
18 registered as well as licensed child care providers.
19 Resolves the conflict between two inconsistent administrative
20 fine provisions in current law by repealing one of the
21 provisions.
22 Directs the Department of Children and Families to adopt rules
23 to administer enforcement actions regarding child care.
24 Requires the Department of Children and Families to establish
25 a statewide data system to capture violations and penalties
26 imposed in child care settings and to make this information
27 available to the public.
28 Amends provisions relating to the Teacher Education and
29 Compensation Helps (TEACH) scholarship program to reflect the
30 administration of the program by the Agency for Workforce
31 Innovation (AWI), rather than DCF.
Removes obsolete language relating to the subsidized child
care program from provisions relating to family day care
homes.