

CHAMBER ACTION

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1 The Future of Florida's Families Committee recommends the  
2 following:

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4 **Council/Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to child care; renumbering and amending s.  
8 402.3017, F.S.; transferring authority for administration  
9 of the Teacher Education and Compensation Helps (TEACH)  
10 scholarship program from the Department of Children and  
11 Family Services to the Agency for Workforce Innovation;  
12 amending s. 402.281, F.S.; providing additional criteria  
13 for a child care provider to obtain and maintain Gold Seal  
14 Quality Care designation; requiring the Department of  
15 Children and Family Services to adopt rules; amending s.  
16 402.302, F.S.; revising the definition of the term  
17 "screening" to broaden the requirements for the screening  
18 of volunteers in child care facilities; amending s.  
19 402.309, F.S.; authorizing the local licensing agency or  
20 the Department of Children and Family Services to issue a  
21 provisional license or registration to a child care  
22 facility, family day care home, or large family child care  
23 home; providing that a provisional license or registration

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24 | may not be issued unless child care personnel are screened  
25 | according to law; requiring the department to adopt rules  
26 | for issuing, suspending, and revoking provisional licenses  
27 | and registrations; amending s. 402.310, F.S.; providing  
28 | that an increased administrative fine may be imposed in  
29 | addition to or in lieu of other disciplinary actions;  
30 | authorizing the department or local licensing agencies to  
31 | convert a license or registration to probation status for  
32 | a violation of certain laws and rules; authorizing the  
33 | department or local licensing agencies to apply  
34 | disciplinary actions to licensed child care facilities,  
35 | licensed large family child care homes, and licensed or  
36 | registered family day care homes; directing the department  
37 | to adopt rules establishing grounds for imposing  
38 | disciplinary actions for violations of certain laws and  
39 | rules; directing the department to adopt rules to create a  
40 | uniform system of procedures to use for disciplinary  
41 | actions; amending s. 402.313, F.S.; removing a provision  
42 | relating to a fine to conform to changes made by the act;  
43 | requiring minimum safety standards for family day care  
44 | homes; amending s. 402.3131, F.S.; removing a provision  
45 | relating to a fine to conform to changes made by the act;  
46 | creating s. 402.317, F.S.; authorizing the provision of  
47 | child care for a period longer than otherwise authorized  
48 | if a parent or legal guardian works a shift of 24 hours or  
49 | more or during a declared state of emergency; providing an  
50 | effective date.

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

53 |

54 |       Section 1. Section 402.3017, Florida Statutes, is  
55 | renumbered as section 411.0103, Florida Statutes, and amended to  
56 | read:

57 |       411.0103 ~~402.3017~~ Teacher Education and Compensation Helps  
58 | (TEACH) scholarship program.--

59 |       (1) The Legislature finds that the level of early child  
60 | care teacher education and training is a key predictor for  
61 | determining program quality. The Legislature also finds that low  
62 | wages for child care workers prevent many from obtaining  
63 | increased training and education and contribute to high turnover  
64 | rates. The Legislature therefore intends to help fund a program  
65 | which links teacher training and education to compensation and  
66 | commitment to the field of early childhood education.

67 |       (2) The Agency for Workforce Innovation shall ~~Department~~  
68 | ~~of Children and Family Services~~ is authorized to contract for  
69 | the administration of the Teacher Education and Compensation  
70 | Helps (TEACH) scholarship program, which provides educational  
71 | scholarships to caregivers and administrators of early childhood  
72 | programs, family day care homes, and large family child care  
73 | homes.

74 |       (3) The Agency for Workforce Innovation ~~department~~ shall  
75 | adopt rules under ss. 120.536(1) and 120.54 as necessary to  
76 | administer ~~implement~~ this section.

77 |       ~~(4) For the 2005-2006 fiscal year only, the Agency for~~  
78 | ~~Workforce Innovation shall administer this section. This~~  
79 | ~~subsection expires July 1, 2006.~~

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80 Section 2. Subsections (3) and (4) are added to section  
81 402.281, Florida Statutes, to read:

82 402.281 Gold Seal Quality Care program.--

83 (3) In order for a child care provider to obtain and  
84 maintain Gold Seal Quality Care designation, a child care  
85 facility, large family child care home, or family day care home  
86 must meet the following additional criteria:

87 (a) A child care provider must not have had any Class 1  
88 deficiencies, as defined by rule, within the 2 years preceding  
89 application for Gold Seal Quality Care designation. The  
90 commission of a Class 1 violation is grounds for the termination  
91 of Gold Seal Quality Care designation. Gold Seal Quality Care  
92 designation may not be restored until the provider has had no  
93 Class 1 violations for 2 consecutive years.

94 (b) A child care provider must not have had three or more  
95 Class 2 deficiencies, as defined by rule, within the 2 years  
96 preceding application for Gold Seal Quality Care designation.  
97 The commission of three or more Class 2 violations within a 2-  
98 year period shall be grounds for termination of Gold Seal  
99 Quality Care designation. Gold Seal Quality Care designation may  
100 not be restored until the provider has had no Class 2 violations  
101 for 1 year.

102 (c) A child care provider must not have been cited for the  
103 same Class 3 violation, as defined by rule, three or more times  
104 within the 2 consecutive years preceding application for Gold  
105 Seal Quality Care designation. The commission of the same Class  
106 3 violation three or more times during a 2-year period is  
107 grounds for termination of Gold Seal Quality Care designation.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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108 Gold Seal Quality Care designation may not be restored until the  
109 provider has not committed the same Class 3 violation for 1  
110 year.

111 (4) The Department of Children and Family Services shall  
112 adopt rules under ss. 120.536(1) and 120.54 that provide  
113 criteria and procedures for reviewing and approving accrediting  
114 agencies for participation in the Gold Seal Quality Care  
115 program, conferring and revoking Gold Seal Quality Care  
116 designation, and classifying violations.

117 Section 3. Subsection (13) of section 402.302, Florida  
118 Statutes, is amended to read:

119 402.302 Definitions.--

120 (13) "Screening" means the act of assessing the background  
121 of child care personnel and volunteers and includes, but is not  
122 limited to, employment history checks, local criminal records  
123 checks through local law enforcement agencies, fingerprinting  
124 for all purposes and checks in this subsection, statewide  
125 criminal records checks through the Department of Law  
126 Enforcement, and federal criminal records checks through the  
127 Federal Bureau of Investigation; ~~except that screening for~~  
128 ~~volunteers included under the definition of personnel includes~~  
129 ~~only local criminal records checks through local law enforcement~~  
130 ~~agencies for current residence and residence immediately prior~~  
131 ~~to employment as a volunteer, if different, and statewide~~  
132 ~~criminal records correspondence checks through the Department of~~  
133 ~~Law Enforcement.~~

134 Section 4. Section 402.309, Florida Statutes, is amended  
135 to read:

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136           402.309   Provisional license or registration.--

137           (1)   The local licensing agency or the department,

138 whichever is authorized to license child care facilities in a

139 county, may issue a provisional license for child care

140 facilities, family day care homes, or large family child care

141 homes, or a provisional registration for family day care homes

142 to applicants for an initial a license or registration or to

143 licensees or registrants seeking a renewal who are unable to

144 meet ~~conform to~~ all the standards provided for in ss. 402.301-

145 402.319.

146           (2)   A ~~No~~ provisional license or registration may not be

147 issued unless the operator or owner makes adequate provisions

148 for the health and safety of the child. A provisional license

149 may be issued for a child care facility if all of the screening

150 materials have been timely submitted.~~, however,~~ A provisional

151 license or registration may not be issued unless the child care

152 facility, family day care home, or large family child care home

153 is in compliance with the requirements for screening of child

154 care personnel in ss. 402.305, ~~and~~ 402.3055, 402.313, and

155 402.3131, respectively.

156           (3)   The provisional license or registration may not ~~shall~~

157 ~~in no event~~ be issued for a period that exceeds ~~in excess of~~ 6

158 months; however, it may be renewed one time for a period that

159 may not exceed ~~in excess of~~ 6 months under unusual circumstances

160 beyond the control of the applicant.

161           (4)   The provisional license or registration may be

162 suspended or revoked if periodic inspection or review ~~made~~ by

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163 | the local licensing agency or the department indicates that  
164 | insufficient progress has been made toward compliance.

165 | (5) The department shall adopt rules specifying the  
166 | conditions and procedures under which a provisional license or  
167 | registration may be issued, suspended, or revoked.

168 | Section 5. Section 402.310, Florida Statutes, is amended  
169 | to read:

170 | 402.310 Disciplinary actions; hearings upon denial,  
171 | suspension, or revocation of license or registration;  
172 | administrative fines.--

173 | (1) (a) The department or local licensing agency may  
174 | administer any of the following disciplinary sanctions for a  
175 | violation of any provision of ss. 402.301-402.319 or rules  
176 | adopted thereunder: ~~deny, suspend, or revoke a license or~~

177 | 1. Impose an administrative fine not to exceed \$100 per  
178 | violation, per day, ~~for the violation of any provision of ss.~~  
179 | ~~402.301-402.319 or rules adopted thereunder.~~ However, if where  
180 | the violation could or does cause death or serious harm, the  
181 | department or local licensing agency may impose an  
182 | administrative fine, not to exceed \$500 per violation per day in  
183 | addition to or in lieu of any other disciplinary action imposed  
184 | pursuant to this section.

185 | 2. Convert a license or registration to probation status  
186 | and require the licensee or registrant to comply with the terms  
187 | of probation. A probation-status license or registration may not  
188 | be issued for a period that exceeds 6 months and the probation-  
189 | status license or registration may not be renewed. A probation-  
190 | status license or registration may be suspended or revoked if

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191 periodic inspection by the department or local licensing agency  
 192 finds that the probation-status licensee or registrant is not in  
 193 compliance with the terms of probation or that the probation-  
 194 status licensee or registrant is not making sufficient progress  
 195 towards compliance with ss. 402.301-402.319.

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

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

200 1. The severity of the violation, including the  
 201 probability that death or serious harm to the health or safety  
 202 of any person will result or has resulted, the severity of the  
 203 actual or potential harm, and the extent to which the provisions  
 204 of ss. 402.301-402.319 have been violated.

205 2. Actions taken by the licensee or registrant to correct  
 206 the violation or to remedy complaints.

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

208 (c) The department shall adopt rules to:

209 1. Establish the grounds under which the department may  
 210 deny, suspend, or revoke a license or registration or place a  
 211 licensee or registrant on probation status for violations of ss.  
 212 402.301-402.319.

213 2. Establish a uniform system of procedures to impose  
 214 disciplinary sanctions for violations of ss. 402.301-402-319.  
 215 The uniform system of procedures must provide for the consistent  
 216 application of disciplinary actions across districts and a  
 217 progressively increasing level of penalties from predisciplinary  
 218 actions, such as efforts to assist licensees or registrants to



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219 correct the statutory or regulatory violations, to severe  
220 disciplinary sanctions for actions that jeopardize the health  
221 and safety of children, such as for the deliberate misuse of  
222 medications. The department shall implement this subparagraph on  
223 January 1, 2007, and the implementation is not contingent upon a  
224 specific appropriation.

225 (d) The disciplinary sanctions set forth in this section  
226 apply to licensed child care facilities, licensed large family  
227 child care homes, and licensed or registered family day care  
228 homes.

229 (2) When the department has reasonable cause to believe  
230 that grounds exist for the denial, suspension, or revocation of  
231 a license or registration, the conversion of a license or  
232 registration to probation status, or the imposition of an  
233 administrative fine exist, it shall determine the matter in  
234 accordance with procedures prescribed in chapter 120. When the  
235 local licensing agency has reasonable cause to believe that  
236 grounds exist for the denial, suspension, or revocation of a  
237 license or registration, the conversion of a license or  
238 registration to probation status, or the imposition of an  
239 administrative fine exist, it shall notify the applicant,  
240 registrant, or licensee in writing, stating the grounds upon  
241 which the license or registration is being denied, suspended, or  
242 revoked, the license or registration is being converted to  
243 probation status, or an administrative fine is being imposed. If  
244 the applicant, registrant, or licensee makes no written request  
245 for a hearing to the local licensing agency within 15 days after  
246 from receipt of the such notice, the license or registration

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247 shall be deemed denied, suspended, or revoked, the license or  
 248 registration shall be converted to probation status, or an  
 249 administrative fine shall be imposed.

250 (3) If a request for a hearing is made to the local  
 251 licensing agency, a hearing shall be held within 30 days and  
 252 shall be conducted by an individual designated by the county  
 253 commission.

254 (4) An applicant, registrant, or licensee has ~~shall have~~  
 255 the right to appeal a decision of the local licensing agency to  
 256 a representative of the department. Any required hearing shall  
 257 be held in the county in which the child care facility, family  
 258 day care home, or large family child care home is being operated  
 259 or is to be established. The hearing shall be conducted in  
 260 accordance with ~~the provisions of~~ chapter 120.

261 Section 6. Paragraphs (b), (c), and (d) of subsection (1)  
 262 and subsection (13) of section 402.313, Florida Statutes, are  
 263 amended to read:

264 402.313 Family day care homes.--

265 (1) Family day care homes shall be licensed under this act  
 266 if they are presently being licensed under an existing county  
 267 licensing ordinance, if they are participating in the subsidized  
 268 child care program, or if the board of county commissioners  
 269 passes a resolution that family day care homes be licensed. If  
 270 no county authority exists for the licensing of a family day  
 271 care home, the department shall have the authority to license  
 272 family day care homes under contract for the purchase-of-service  
 273 system in the subsidized child care program.

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

277 (b)~~(e)~~ A family day care home not participating in the  
 278 subsidized child care program may volunteer to be licensed under  
 279 the provisions of this act.

280 (c)~~(d)~~ The department may provide technical assistance to  
 281 counties and family day care home providers to enable counties  
 282 and family day care providers to achieve compliance with family  
 283 day care homes standards.

284 (13) The department shall, by rule, establish minimum  
 285 standards for family day care homes that are required to be  
 286 licensed by county licensing ordinance or county licensing  
 287 resolution or that voluntarily choose to be licensed. The  
 288 standards should include requirements for staffing, training,  
 289 maintenance of immunization records, minimum health and safety  
 290 standards, reduced standards for the regulation of child care  
 291 during evening hours by municipalities and counties, and  
 292 enforcement of standards.

293 Section 7. Subsection (1) of section 402.3131, Florida  
 294 Statutes, is amended to read:

295 402.3131 Large family child care homes.--

296 (1) Large family child care homes shall be licensed under  
 297 this section.

298 ~~(a) The department or local licensing agency may impose an~~  
 299 ~~administrative fine, not to exceed \$1,000, for failure to comply~~  
 300 ~~with licensure requirements.~~

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301        ~~(a)-(b)~~ A licensed family day care home must first have  
302 operated for a minimum of 2 consecutive years, with an operator  
303 who has had a child development associate credential or its  
304 equivalent for 1 year, before seeking licensure as a large  
305 family child care home.

306        ~~(b)-(c)~~ The department may provide technical assistance to  
307 counties and family day care home providers to enable the  
308 counties and providers to achieve compliance with minimum  
309 standards for large family child care homes.

310        Section 8. Section 402.317, Florida Statutes, is created  
311 to read:

312        402.317 Prolonged child care.--Notwithstanding the time  
313 restriction specified in s. 402.302(1), child care may be  
314 provided for 24 hours or longer for a child whose parent or  
315 legal guardian works a shift of 24 hours or more. The  
316 requirement that a parent or legal guardian work a shift of 24  
317 hours or more must be certified in writing by the employer, and  
318 the written certification shall be maintained in the facility by  
319 the child care provider and made available to the licensing  
320 agency. The time that a child remains in child care, however,  
321 may not exceed 72 consecutive hours in any 7-day period. During  
322 a declared state of emergency, the child care licensing agency  
323 may temporarily waive the time limitations provided in this  
324 section.

325        Section 9. This act shall take effect July 1, 2006.