

CHAMBER ACTION

1 The Health & Families Council recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to child care; renumbering and amending s.
7 402.3017, F.S.; transferring authority for administration
8 of the Teacher Education and Compensation Helps (TEACH)
9 scholarship program from the Department of Children and
10 Family Services to the Agency for Workforce Innovation;
11 amending s. 402.281, F.S.; providing additional criteria
12 for a child care provider to obtain and maintain Gold Seal
13 Quality Care designation; requiring the Department of
14 Children and Family Services to adopt rules; amending s.
15 402.302, F.S.; revising the definition of the term
16 "screening" to broaden the requirements for the screening
17 of volunteers in child care facilities; amending s.
18 402.309, F.S.; authorizing the local licensing agency or
19 the Department of Children and Family Services to issue a
20 provisional license or registration to a child care
21 facility, family day care home, or large family child care
22 home; providing that a provisional license or registration
23 may not be issued unless child care personnel are screened

Page 1 of 12

HB 1231 CS

2006
CS

24 | according to law; requiring the department to adopt rules
25 | for issuing, suspending, and revoking provisional licenses
26 | and registrations; amending s. 402.310, F.S.; providing
27 | that an increased administrative fine may be imposed in
28 | addition to or in lieu of other disciplinary actions;
29 | authorizing the department or local licensing agencies to
30 | convert a license or registration to probation status for
31 | a violation of certain laws and rules; authorizing the
32 | department or local licensing agencies to apply
33 | disciplinary actions to licensed child care facilities,
34 | licensed large family child care homes, and licensed or
35 | registered family day care homes; directing the department
36 | to adopt rules establishing grounds for imposing
37 | disciplinary actions for violations of certain laws and
38 | rules; directing the department to adopt rules to create a
39 | uniform system of procedures to use for disciplinary
40 | actions; amending s. 402.313, F.S.; removing a provision
41 | relating to a fine to conform to changes made by the act;
42 | requiring minimum safety standards for family day care
43 | homes; amending s. 402.3131, F.S.; removing a provision
44 | relating to a fine to conform to changes made by the act;
45 | creating s. 402.317, F.S.; authorizing the provision of
46 | child care for a period longer than otherwise authorized
47 | if a parent or legal guardian works a shift of 24 hours or
48 | more or during a declared state of emergency; providing an
49 | effective date.

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

Page 2 of 12

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

hb1231-02-c2

HB 1231 CS

2006
CS52
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Section 1. Section 402.3017, Florida Statutes, is renumbered as section 411.0103, Florida Statutes, and amended to read:

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

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

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

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

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

HB 1231 CS

2006
CS

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

81 402.281 Gold Seal Quality Care program.--

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

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

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

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

HB 1231 CS

2006
CS

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

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

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

118 402.302 Definitions.--

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

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

HB 1231 CS

2006
CS

135 402.309 Provisional license or registration.--
 136 (1) The local licensing agency or the department,
 137 whichever is authorized to license child care facilities in a
 138 county, may issue a provisional license for child care
 139 facilities, family day care homes, or large family child care
 140 homes, or a provisional registration for family day care homes
 141 to applicants for an initial a license or registration or to
 142 licensees or registrants seeking a renewal who are unable to
 143 meet ~~conform to~~ all the standards provided for in ss. 402.301-
 144 402.319.

145 (2) A ~~No~~ provisional license or registration may not be
 146 issued unless the operator or owner makes adequate provisions
 147 for the health and safety of the child. A provisional license
 148 may be issued for a child care facility if all of the screening
 149 materials have been timely submitted.~~, however,~~ A provisional
 150 license or registration may not be issued unless the child care
 151 facility, family day care home, or large family child care home
 152 is in compliance with the requirements for screening of child
 153 care personnel in ss. 402.305, ~~and~~ 402.3055, 402.313, and
 154 402.3131, respectively.

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

160 (4) The provisional license or registration may be
 161 suspended or revoked if periodic inspection or review ~~made~~ by

HB 1231 CS

2006
CS

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

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

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

169 402.310 Disciplinary actions; hearings upon denial,
170 suspension, or revocation of license or registration;
171 administrative fines.--

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

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

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

HB 1231 CS

2006
CS

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

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

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

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

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

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

207 (c) The department shall adopt rules to:

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

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

HB 1231 CS

2006
CS

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

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

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

HB 1231 CS

2006
CS

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

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

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

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

263 402.313 Family day care homes.--

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

HB 1231 CS

2006
CS

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

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

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

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

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

294 402.3131 Large family child care homes.--

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

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

HB 1231 CS

2006
CS

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

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

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

311 402.317 Prolonged child care.--Notwithstanding the time
312 restriction specified in s. 402.302(1), child care may be
313 provided for 24 hours or longer for a child whose parent or
314 legal guardian works a shift of 24 hours or more. The
315 requirement that a parent or legal guardian work a shift of 24
316 hours or more must be certified in writing by the employer, and
317 the written certification shall be maintained in the facility by
318 the child care provider and made available to the licensing
319 agency. The time that a child remains in child care, however,
320 may not exceed 72 consecutive hours in any 7-day period. During
321 a declared state of emergency, the child care licensing agency
322 may temporarily waive the time limitations provided in this
323 section.

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