

By the Committees on Community Affairs; Children and Families;
and Senator Lynn

578-2049-06

1 A bill to be entitled
2 An act relating to child care; amending s.
3 402.281, F.S.; providing criteria that certain
4 child care facilities must meet in order to
5 obtain and maintain a designation as a Gold
6 Seal Quality Care provider; requiring the
7 Department of Children and Family Services to
8 adopt rules pertaining to the Gold Seal Quality
9 Care program; amending s. 402.302, F.S.;
10 revising the definition of the term "screening"
11 to include volunteers; amending s. 402.310,
12 F.S.; authorizing the department or local
13 licensing agency to administer certain
14 disciplinary sanctions to licensees and
15 registrants; authorizing the department or
16 local licensing agency to convert a license or
17 registration to probation status for a
18 violation of certain laws; requiring the
19 department to adopt rules establishing the
20 grounds for imposing disciplinary actions and
21 creating a uniform system of procedures;
22 amending s. 402.313, F.S.; deleting a provision
23 that authorizes the department or local
24 licensing agency to impose an administrative
25 fine on family day care homes that fail to
26 comply with licensure or registration
27 requirements; providing that the minimum
28 standards required for family day care homes
29 for licensure should include health and safety
30 standards; amending s. 402.3131, F.S.; deleting
31 a provision that authorizes the department or

1 local licensing agency to impose an
2 administrative fine on large family child care
3 homes that fail to comply with licensure
4 requirements; transferring, renumbering, and
5 amending s. 402.3017, F.S.; revising the
6 provisions of the Teacher Education and
7 Compensation Helps scholarship program;
8 authorizing the Agency for Workforce Innovation
9 to administer the program and adopt rules;
10 amending s. 402.309, F.S.; authorizing the
11 issuance of a provisional license or
12 registration for child care to certain
13 applicants; prohibiting a provisional license
14 or registration from being issued under certain
15 circumstances; authorizing the suspension or
16 revocation of a provisional license or
17 registration under certain circumstances;
18 requiring the department to adopt rules;
19 creating s. 402.317, F.S.; authorizing the
20 provision of child care for a period longer
21 than otherwise authorized if a parent or legal
22 guardian works a shift of 24 hours or more;
23 providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

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27 Section 1. Subsections (3) and (4) are added to
28 section 402.281, Florida Statutes, to read:

29 402.281 Gold Seal Quality Care program.--

30 (3) In order to obtain and maintain a designation as a
31 Gold Seal Quality Care provider, a child care facility, large

1 family child care home, or family day care home must meet the
2 following additional criteria:

3 (a) The child care provider must not have had any
4 class I violations, as defined by rule, within the 2 years
5 preceding its application for designation as a Gold Seal
6 Quality Care provider. Commission of a class I violation
7 shall be grounds for termination of the designation as a Gold
8 Seal Quality Care provider until the provider has no class I
9 violations for a period of 2 years.

10 (b) The child care provider must not have had three or
11 more class II violations, as defined by rule, within the 2
12 years preceding its application for designation as a Gold Seal
13 Quality Care provider. Commission of three or more class II
14 violations within a 2-year period shall be grounds for
15 termination of the designation as a Gold Seal Quality Care
16 provider until the provider has no class II violations for a
17 period of 1 year.

18 (c) The child care provider must not have been cited
19 for the same class III violation, as defined by rule, three or
20 more times within the 2 years preceding its application for
21 designation as a Gold Seal Quality Care provider. Commission
22 of the same class III violation three or more times during a
23 2-year period shall be grounds for termination of the
24 designation as a Gold Seal Quality Care provider until the
25 provider has no class III violations for a period of 1 year.

26 (4) The Department of Children and Family Services
27 shall adopt rules under ss. 120.536(1) and 120.54 which
28 provide criteria and procedures for reviewing and approving
29 accrediting associations for participation in the Gold Seal
30 Quality Care program, conferring and revoking designations of
31 Gold Seal Quality Care providers, and classifying violations.

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

3 402.302 Definitions.--

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

18 Section 3. Section 402.310, Florida Statutes, is
19 amended to read:

20 402.310 Disciplinary actions; hearings upon denial,
21 suspension, or revocation of license or registration;
22 administrative fines.--

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

28 1. Impose an administrative fine not to exceed \$100
29 per violation, per day, ~~for the violation of any provision of~~
30 ~~ss. 402.301-402.319 or rules adopted thereunder.~~ However, if
31 ~~where~~ the violation could or does cause death or serious harm,

1 the department or local licensing agency may impose an
2 administrative fine, not to exceed \$500 per violation per day
3 in addition to or in lieu of any other disciplinary action
4 imposed under this section.

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

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

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

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

26 2. Actions taken by the licensee or registrant to
27 correct the violation or to remedy complaints.

28 3. Any previous violations of the licensee or
29 registrant.

30 (c) The department shall adopt rules to:

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

5 2. Establish a uniform system of procedures to impose
6 disciplinary sanctions for violations of ss. 402.301-402.319.
7 The uniform system of procedures must provide for the
8 consistent application of disciplinary actions across
9 districts and a progressively increasing level of penalties
10 from predisciplinary actions, such as efforts to assist
11 licensees or registrants to correct the statutory or
12 regulatory violations, and to severe disciplinary sanctions
13 for actions that jeopardize the health and safety of children,
14 such as for the deliberate misuse of medications. The
15 department shall implement this subparagraph on January 1,
16 2007, and the implementation is not contingent upon a specific
17 appropriation.

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

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

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

11 (3) 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 (4) An applicant, registrant, or licensee shall have
16 the right to appeal a decision of the local licensing agency
17 to a representative of the department. Any required hearing
18 shall be held in the county in which the child care facility,
19 family day care home, or large family child care home is being
20 operated or is to be established. The hearing shall be
21 conducted in accordance with the provisions of chapter 120.

22 Section 4. Paragraphs (b), (c), and (d) of subsection
23 (1) and subsection (13) of section 402.313, Florida Statutes,
24 are amended to read:

25 402.313 Family day care homes.--

26 (1) Family day care homes shall be licensed under this
27 act if they are presently being licensed under an existing
28 county licensing ordinance, if they are participating in the
29 subsidized child care program, or if the board of county
30 commissioners passes a resolution that family day care homes
31 be licensed. If no county authority exists for the licensing

1 of a family day care home, the department shall have the
2 authority to license family day care homes under contract for
3 the purchase-of-service system in the subsidized child care
4 program.

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

8 (b)(e) A family day care home not participating in the
9 subsidized child care program may volunteer to be licensed
10 under the provisions of this act.

11 ~~(c)(d)~~ The department may provide technical assistance
12 to counties and family day care home providers to enable
13 counties and family day care providers to achieve compliance
14 with family day care homes standards.

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

24 Section 5. Subsection (1) of section 402.3131, Florida
25 Statutes, is amended to read:

26 402.3131 Large family child care homes.--

27 (1) Large family child care homes shall be licensed
28 under this section.

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

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

6 ~~(b)(c)~~ The department may provide technical assistance
7 to counties and family day care home providers to enable the
8 counties and providers to achieve compliance with minimum
9 standards for large family child care homes.

10 Section 6. Section 402.3017, Florida Statutes, is
11 renumbered as section 411.0103, Florida Statutes, and amended
12 to read:

13 411.0103 ~~402.3017~~ Teacher Education and Compensation
14 Helps (TEACH) scholarship program.--

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

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

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1 (3) The ~~agency department~~ shall adopt rules under ss.
2 120.536(1) and 120.54 as necessary to administer ~~implement~~
3 this section.

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

7 Section 7. Section 402.309, Florida Statutes, is
8 amended to read:

9 402.309 Provisional license or registration.--

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

19 (2) ~~A No~~ provisional license or registration may not
20 be issued unless the operator or owner makes adequate
21 provisions for the health and safety of the child. A
22 provisional license may be issued for a child care facility if
23 all of the screening materials have been timely submitted. ~~+~~
24 ~~however,~~ A provisional license or registration may not be
25 issued unless the child care facility, family day care home,
26 or large family child care home is in compliance with the
27 requirements for screening of child care personnel in ss.
28 402.305, ~~and~~ 402.3055, 402.313, and 402.3131, respectively.

29 (3) The provisional license or registration may not
30 ~~shall in no event~~ be issued for a period that exceeds ~~in~~
31 ~~excess of~~ 6 months; however, it may be renewed one time for a

1 | period that may not exceed ~~in excess of~~ 6 months under unusual
2 | circumstances beyond the control of the applicant.

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

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

10 | Section 8. Section 402.317, Florida Statutes, is
11 | created to read:

12 | 402.317 Prolonged child care.--Notwithstanding the
13 | time restriction specified in s. 402.302(1), child care may be
14 | provided for 24 hours or longer for a child whose parent or
15 | legal guardian works a shift of 24 hours or more. The
16 | requirement that a parent or legal guardian work a shift of 24
17 | hours or more must be certified in writing by the employer,
18 | and the written certification shall be maintained in the
19 | facility by the child care provider and made available to the
20 | licensing agency. The time that a child remains in child care,
21 | however, may not exceed 72 consecutive hours in any 7-day
22 | period. During a declared state of emergency, the child care
23 | licensing agency may temporarily waive the time limitations
24 | provided in this section.

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

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 CS for SB 1510
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5 The committee substitute for committee substitute (CS)
6 provides the Department of Children and Family Services
7 (department) with the option of converting the license or
8 registration of certain child care facilities to probation
9 status. This probation status may not exceed six months and
10 may not be renewed. If a periodic inspection during the
11 probationary status finds the licensee or registrant is not in
12 compliance with the terms of probation or is not making
13 sufficient progress towards compliance, the department may
14 revoke the probation-status license or registration. Under
15 this CS, the department is required to adopt rules to
16 establish the grounds for denying, suspending, revoking, or
17 placing a registration or license on probation status. This CS
18 also requires the department to have a uniform system of
19 procedures for imposing disciplinary sanctions on certain
20 child care facilities in effect on January 1, 2007. The CS
21 also makes conforming changes.
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