

By Senator Lynn

7-78-06

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; a large family child care home;
6 requiring the Office of Program Policy Analysis
7 and Government Accountability to conduct a
8 study of the Child Care Services Program Office
9 of the Department of Children and Family
10 Services and provide a report to the
11 Legislature; repealing s. 402.3131(1)(a), F.S.,
12 relating to the authority of the department or
13 local licensing agency to impose an
14 administrative fine against a large family
15 child care home; providing an effective date.

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17 Be It Enacted by the Legislature of the State of Florida:
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19 Section 1. Section 402.3017, Florida Statutes, is
20 transferred, renumbered as section 411.0103, Florida Statutes,
21 and amended to read:

22 411.0103 ~~402.3017~~ Teacher Education and Compensation
23 Helps (TEACH) scholarship program.--

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

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

10 (3) The Agency for Workforce Innovation ~~may department~~
11 ~~shall~~ adopt rules ~~as necessary~~ to administer ~~implement~~ this
12 section.

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

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

18 402.302 Definitions.--

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

1 ~~different, and statewide criminal records correspondence~~
2 ~~checks through the Department of Law Enforcement.~~

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

5 402.3055 Child care personnel requirements.--

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

7 (a) The department or local licensing agency shall
8 require that the application for a license to operate a child
9 care facility, family day care home, or large family child
10 care home license contain a question that specifically asks
11 the applicant, owner, or operator if he or she has ever had a
12 license denied, revoked, or suspended in any state or
13 jurisdiction or has been the subject of a disciplinary action
14 or been fined while employed in a child care facility, family
15 day care home, or large family child care home. The applicant,
16 owner, or operator shall sign an affidavit attesting ~~attest~~ to
17 the accuracy of the information requested under penalty of
18 perjury.

19 1. If the applicant, owner, or operator admits that he
20 or she has been a party in such action, the department or
21 local licensing agency shall review the nature of the
22 suspension, revocation, disciplinary action, or fine before
23 granting the applicant a license to operate a child care
24 facility, family day care home, or large family child care
25 home.

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

30 (b) The employer of a child care facility, family day
31 care home, or large family child care home ~~employer~~ shall

1 require that the application for a child care personnel
2 position contain a question that specifically asks the
3 applicant if he or she has ever worked in a facility or home
4 that has had a license denied, revoked, or suspended in this
5 or any other state or jurisdiction or if the applicant has
6 been the subject of a disciplinary action or been fined while
7 he or she was employed in a child care facility or home. The
8 applicant shall attest to the accuracy of the information
9 requested under penalty of perjury. If the applicant admits
10 that he or she has been a party in such action, the employer
11 shall review the nature of the denial, suspension, revocation,
12 disciplinary action, or fine before the applicant is hired.

13 (2) EXCLUSION FROM OWNING, OPERATING, OR BEING
14 EMPLOYED BY A CHILD CARE FACILITY OR OTHER CHILD CARE PROGRAM;
15 HEARINGS PROVIDED.--

16 (a) The department or local licensing agency shall
17 deny, suspend, or revoke a license or pursue other remedies
18 provided in s. 402.310, s. 402.312, or s. 402.319 in addition
19 to or in lieu of denial, suspension, or revocation for failure
20 to comply with this section. The disciplinary actions taken
21 ~~determination to be made~~ by the department or the local
22 licensing agency and the procedure for hearing for applicants
23 and licensees shall be in accordance with s. 402.310.

24 (b) When the department or the local licensing agency
25 has reasonable cause to believe that grounds for denial or
26 termination of employment exist, it shall notify, in writing,
27 the applicant, licensee, or other child care program and the
28 child care personnel affected, stating the specific grounds
29 indicating ~~record which indicates~~ noncompliance with the
30 standards in s. 402.305(2).
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1 (c) When the department is the agency initiating the
2 allegations of ~~statement regarding~~ noncompliance, the
3 procedures established for hearing under chapter 120 shall be
4 available to the applicant, licensee, or other child care
5 program and to the affected child care personnel, in order to
6 present evidence relating either to the accuracy of the basis
7 of exclusion or to the denial of an exemption from
8 disqualification.

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

19 (e) If a request for a hearing is made to the local
20 licensing agency, a hearing shall be held within 30 days and
21 shall be conducted by an individual designated by the county
22 commission.

23 (f) An employee, applicant, licensee, or other child
24 care program has ~~shall have~~ the right to appeal a finding of
25 the local licensing agency to a representative of the
26 department. Any required hearing shall be held in the county
27 in which the permanent employee is employed. The hearing shall
28 be conducted in accordance with ~~the provisions of~~ chapter 120.

29 (g) Refusal on the part of an applicant or licensee to
30 dismiss child care personnel who have been found to be in
31 noncompliance with personnel standards of s. 402.305(2) shall

1 result in automatic denial or revocation of the license in
2 addition to any other remedies pursued by the department or
3 local licensing agency.

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

6 402.308 Issuance of license.--

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

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

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

26 (b) ~~Before renewing~~ ~~Prior to the renewal of~~ a license,
27 the department shall reexamine the child care facility, family
28 day care home, or large family child care home, including in
29 that process the examination of the premises and those records
30 of the facility or home as required under s. 402.305, to
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1 determine that minimum standards for licensing continue to be
2 met.

3 (c) The department shall coordinate all inspections of
4 child care facilities, family day care homes, and large family
5 child care homes. A child care provider facility is not
6 required to implement a recommendation of one agency which
7 ~~that~~ is in conflict with a recommendation of another agency if
8 the such conflict arises from due to uncoordinated
9 inspections. Any conflict in recommendations shall be resolved
10 by the secretary of the department within 15 days after
11 written notice that the such conflict exists.

12 (d) The department shall issue or renew a license upon
13 receipt of the license fee and upon being satisfied that all
14 standards required by ss. 402.301-402.319 have been met. A
15 license may be issued if all the screening materials have been
16 timely submitted; however, a license may not be issued or
17 renewed if any of the child care personnel at the applicant
18 facility or home have failed the screening required by ss.
19 402.305(2) and 402.3055.

20 Section 5. Section 402.309, Florida Statutes, is
21 amended to read:

22 402.309 Provisional license or registration.--

23 (1) The local licensing agency or the department,
24 whichever is authorized to license child care facilities in a
25 county, may issue a provisional license for child care
26 facilities, family day care homes, or large family child care
27 homes, or a provisional registration for family day care homes
28 to applicants for an initial ~~a~~ license or registration or to
29 licensees or registrants seeking a renewal who are unable to
30 meet conform to all the standards provided for in ss.
31 402.301-402.319.

1 (2) ~~A~~ No provisional license or registration may not
2 be issued unless the operator or owner makes adequate
3 provisions for the health and safety of the child. A
4 provisional license may be issued for a child care facility if
5 all of the screening materials have been timely submitted. ~~+~~
6 ~~however,~~ A provisional license or registration may not be
7 issued unless the child care facility, family day care home,
8 or large family child care home is in compliance with the
9 requirements for screening of child care personnel in ss.
10 402.305, ~~and~~ 402.3055, 402.313, and 402.3131, respectively.

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

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

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

23 Section 6. Section 402.310, Florida Statutes, is
24 amended to read:

25 402.310 Disciplinary actions; hearings upon denial,
26 suspension, or revocation of license or registration;
27 administrative fines.--

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

1 1. Impose an administrative fine not to exceed \$100
2 per violation, per day, ~~for the violation of any provision of~~
3 ~~ss. 402.301-402.319 or rules adopted thereunder.~~ However, if
4 ~~where~~ the violation could or does cause death or serious harm,
5 the department or local licensing agency may impose an
6 administrative fine, not to exceed \$500 per violation per day,
7 in addition to or in lieu of any other disciplinary action
8 described in this section.

9 2. Convert a license or registration to probation
10 status and require the licensee or registrant to comply with
11 the terms of probation. A probation-status license or
12 registration may not be issued for a period that exceeds 6
13 months and the license or registration may not be renewed. A
14 probation-status license or registration may be suspended or
15 revoked if periodic inspection by the department or local
16 licensing agency finds that the probation-status licensee or
17 registrant is not in compliance with the terms of probation or
18 that the probation-status licensee or registrant is not making
19 sufficient progress towards compliance with ss.
20 402.301-402.319.

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

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

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

30 2. Actions taken by the licensee or registrant to
31 correct the violation or to remedy complaints.

1 3. Any previous violations of the licensee or
2 registrant.

3 (c) The department shall adopt rules to:

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

8 2. Establish a uniform system of procedures to impose
9 disciplinary sanctions for violations of ss. 402.301-402-319.
10 The uniform system of procedures must provide for the
11 consistent application of disciplinary actions across
12 districts and a progressively increasing level of penalties
13 from predisciplinary actions, such as efforts to assist
14 licensees or registrants to correct the statutory or
15 regulatory violations, to severe disciplinary sanctions for
16 actions that jeopardize the health and safety of children,
17 such as for the deliberate misuse of medications. The
18 department shall implement this subparagraph on January 1,
19 2007, and the implementation is not contingent upon a specific
20 appropriation.

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

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

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

14 (3) If a request for a hearing is made to the local
15 licensing agency, a hearing shall be held within 30 days and
16 shall be conducted by an individual designated by the county
17 commission.

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

26 Section 7. Section 402.3105, Florida Statutes, is
27 created to read:

28 402.3105 Central database on violations, citations,
29 and penalties imposed against child care facilities, family
30 day care homes, and large family child care homes.--

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1 (1) The department, in consultation with the state
2 technology office, shall establish and maintain a central
3 database to record and compile all information from the
4 service districts and local licensing agencies concerning
5 violations, citations, and penalties imposed against child
6 care facilities, family day care homes, and large family child
7 care homes regulated by or registered with the department or
8 local licensing agency. The department shall develop the
9 central database under chapter 282 and shall administer,
10 operate, and maintain the database following the policies and
11 procedures of the state technology office.

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

24 (3) The central database shall be an informational
25 resource for evaluating child care facilities, family day care
26 homes, and large family child care homes for license or
27 registration renewals but may not be used for employment
28 screening. The database information is open to the public and
29 is subject to chapter 119.

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1 (4) The department shall begin implementing this
2 section July 1, 2006, and the implementation is not contingent
3 upon a specific appropriation.

4 Section 8. Subsections (1) and (13) of section
5 402.313, Florida Statutes, are amended to read:

6 402.313 Family day care homes.--

7 (1) Family day care homes shall be licensed under this
8 act if they are presently being licensed under an existing
9 county licensing ordinance, ~~if they are participating in the~~
10 ~~subsidized child care program,~~ or if the board of county
11 commissioners passes a resolution that family day care homes
12 be licensed. ~~If no county authority exists for the licensing~~
13 ~~of a family day care home, the department shall have the~~
14 ~~authority to license family day care homes under contract for~~
15 ~~the purchase of service system in the subsidized child care~~
16 ~~program.~~

17 (a) If not subject to license, family day care homes
18 shall register annually with the department, providing the
19 following information:

- 20 1. The name and address of the home.
- 21 2. The name of the operator.
- 22 3. The number of children served.
- 23 4. Proof of a written plan to provide at least one
24 other competent adult to be available to substitute for the
25 operator in an emergency. This plan shall include the name,
26 address, and telephone number of the designated substitute.
- 27 5. Proof of screening and background checks.
- 28 6. Proof of successful completion of the 30-hour
29 training course, as evidenced by passage of a competency
30 examination, which shall include:

1 a. State and local rules and regulations that govern
2 child care.

3 b. Health, safety, and nutrition.

4 c. Identifying and reporting child abuse and neglect.

5 d. Child development, including typical and atypical
6 language development; and cognitive, motor, social, and
7 self-help skills development.

8 e. Observation of developmental behaviors, including
9 using a checklist or other similar observation tools and
10 techniques to determine a child's developmental level.

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

15 7. Proof that immunization records are kept current.

16 8. Proof of completion of the required continuing
17 education units or clock hours.

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

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

25 ~~(c)(d)~~ The department may provide technical assistance
26 to counties and family day care home providers to enable
27 counties and family day care providers to achieve compliance
28 with family day care homes standards.

29 (13) The department shall adopt a rule establishing,
30 ~~by rule, establish~~ minimum standards for family day care homes
31 that are required to be licensed by county licensing ordinance

1 or county licensing resolution or that voluntarily choose to
2 be licensed. The standards should include requirements for
3 staffing, training, maintenance of immunization records,
4 minimum health and safety standards, reduced standards for the
5 regulation of child care during evening hours by
6 municipalities and counties, and enforcement of standards.

7 Section 9. The Office of Program Policy Analysis and
8 Government Accountability shall conduct a study of the
9 administrative and operational structure of the Child Care
10 Services Program Office of the Department of Children and
11 Family Services, including a review of all resources
12 supporting the program. The Office of Program Policy Analysis
13 and Government Accountability shall report its findings and
14 make a recommendation regarding the appropriate state agency
15 to administer child care regulation functions, to the
16 President of the Senate, the Speaker of the House of
17 Representatives, and the Governor by December 1, 2006.

18 Section 10. Paragraph (a) of subsection (1) of s.
19 402.3131, Florida Statutes, is repealed.

20 Section 11. This act shall take effect July 1, 2006.
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SENATE SUMMARY

Revises the Teacher Education and Compensation Helps scholarship program. Provides for the screening of child care volunteers. Authorizes the Department of Children and Family Services to apply certain requirements for personnel in child care facilities to personnel in family day care homes and large family child care homes. Provides licensing requirements for family day care homes and large family child care homes. Authorizes the local licensing agency or the Department of Children and Family Services to issue a provisional license or registration to a child care facility, family day care home, or large family child care home. Provides background screening requirements. Provides penalties. Requires the department to establish a database of information concerning violations, citations, and penalties imposed against child care facilities, family day care homes, and large family child care homes licensed by or registered with the department and local licensing agencies. Requires the Office of Program Policy Analysis and Government Accountability to conduct a study of the Child Care Services Program Office of the Department of Children and Family Services and provide a report to the Legislature. (See bill for details.)