

1                   A bill to be entitled  
2           An act relating to licensure of child care programs;  
3           amending s. 402.301, F.S.; requiring certain  
4           membership organizations that provide child care to be  
5           licensed as child care facilities; amending s.  
6           402.302, F.S.; defining the terms "after-school  
7           program" and "school-age child"; revising the  
8           definitions of the terms "child care" and "child care  
9           facility"; amending s. 402.305, F.S.; authorizing,  
10          rather than requiring, the Department of Children and  
11          Families to adopt a definition by rule; requiring  
12          certain organizations operating after-school programs  
13          to be licensed as child care facilities to receive  
14          state funding; revising training requirements for  
15          child care personnel; exempting such organizations  
16          from child care facility licensing standards relating  
17          to minimum square footage for usable areas and  
18          restroom and bath facilities; providing applicability;  
19          amending s. 402.315, F.S.; establishing a licensure  
20          fee for certain after-school programs; amending ss.  
21          39.201, 402.317, 435.07, 1002.59, 1002.82, and  
22          1002.88, F.S.; conforming cross-references; providing  
23          an appropriation; providing an effective date.

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

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Section 1. Subsection (6) of section 402.301, Florida Statutes, is amended to read:

402.301 Child care facilities; legislative intent and declaration of purpose and policy.—It is the legislative intent to protect the health, safety, and well-being of the children of the state and to promote their emotional and intellectual development and care. Toward that end:

(6) It is further the intent that membership organizations affiliated with national organizations which do not provide child care, whose primary purpose is providing activities that contribute to the development of good character or good sportsmanship or to the education or cultural development of minors in this state, which charge only a nominal annual membership fee, which are not for profit, and which are certified by their national associations as being in compliance with the association's minimum standards and procedures shall not be considered child care facilities. However, such membership organizations that provide child care must be licensed as a child care facility as required under this chapter. Notwithstanding licensure status, all personnel as defined in s. 402.302 of such membership organizations shall meet background screening requirements through the department pursuant to ss. 402.305 and 402.3055.

Section 2. Subsections (1) through (14) and (15) through

51 (18) of section 402.302, Florida Statutes, are renumbered as  
52 subsections (2) through (15) and (17) through (20),  
53 respectively, present subsections (1) and (2) are amended, and  
54 new subsections (1) and (16) are added to that section, to read:

55 402.302 Definitions.—As used in this chapter, the term:

56 (1) "After-school program" means child care for school-age  
57 children during out-of-school times, including, but not limited  
58 to, before school or after school, school breaks, and inservice  
59 planning days.

60 (a) An after-school program includes, but is not limited  
61 to, a program that does not require a parent to be in attendance  
62 while the child is at the facility and satisfies three or more  
63 of the following elements:

64 1. Provides transportation to or from the facility where  
65 the program is offered.

66 2. Provides meals or snacks to children participating in  
67 the program.

68 3. Provides more than one type of activity, including, but  
69 not limited to, educational, artistic, athletic, or self-  
70 directed activities.

71 4. Provides tutoring or homework assistance, or includes a  
72 specific time for children to complete homework while at the  
73 facility.

74 5. Advertises or holds itself out as providing child care  
75 or being an after-school program.

76       6. Takes children on field trips.

77       (b) An after-school program does not include:

78       1. A program on a public or nonpublic school site that is  
79 operated and staffed directly by the school or through a formal  
80 agreement between the school and a provider to serve children  
81 who attend that school. A lease for space or user agreement is  
82 not considered a formal agreement.

83       2. A program that is solely instructional or tutorial.

84       3. An open-access program. An open-access program is a  
85 program that allows children to come and go at will. An open-  
86 access program may not:

87       a. Serve children for more than 4 hours per regular school  
88 day.

89       b. Advertise or otherwise represent that it provides child  
90 care or after-school care, is an after-school program, or offers  
91 supervision.

92       c. Provide supervision.

93       d. Provide transportation, directly or indirectly.

94       e. Provide meals or snacks outside of the federal  
95 Afterschool Meal Program.

96       f. Deliver a school readiness program pursuant to s.  
97 1002.88.

98       4. A program that does not hold a Gold Seal Quality Care  
99 designation under s. 402.281 that provides child care  
100 exclusively for children in grades 6 through 12.

101        (2)~~(1)~~ "Child care" means the care, protection, and  
 102 supervision of a child, for a period of less than 24 hours a day  
 103 on a regular basis, which supplements parental care, enrichment,  
 104 and health supervision for the child, in accordance with his or  
 105 her individual needs, and for which a payment, fee, or grant is  
 106 made for care. A nominal membership fee is a fee for care. Child  
 107 care may also include, but is not limited to, providing  
 108 transportation, food services, educational activities, and  
 109 instructional activities.

110        (3)~~(2)~~ "Child care facility" includes any child care  
 111 center, after-school program, or child care arrangement which  
 112 provides child care for more than five children unrelated to the  
 113 operator and which receives a payment, fee, or grant for any of  
 114 the children receiving care, wherever operated, and whether or  
 115 not operated for profit. The following are not included:

116        (a) Public schools and nonpublic schools and ~~their~~  
 117 ~~integral~~ programs that occur during regular school hours, except  
 118 for programs ~~as~~ provided in s. 402.3025;

119        (b) Summer camps having children in full-time residence;

120        (c) Summer day camps;

121        (d) Bible schools normally conducted during vacation  
 122 periods; and

123        (e) Operators of transient establishments, as defined in  
 124 chapter 509, which provide child care services solely for the  
 125 guests of their establishment or resort, provided that all child

126 care personnel of the establishment are screened according to  
 127 the level 2 screening requirements of chapter 435.

128 (16) "School-age child" means a child who is at least 5  
 129 years of age but not older than 12 years of age by September 1  
 130 of the beginning of the school year and who attends grades  
 131 kindergarten and above.

132 Section 3. Paragraph (c) of subsection (1), paragraphs (d)  
 133 and (f) of subsection (2), and subsection (6) of section  
 134 402.305, Florida Statutes, are amended, and paragraph (d) is  
 135 added to subsection (1) of that section, to read:

136 402.305 Licensing standards; child care facilities.—

137 (1) LICENSING STANDARDS.—The department shall establish  
 138 licensing standards that each licensed child care facility must  
 139 meet regardless of the origin or source of the fees used to  
 140 operate the facility or the type of children served by the  
 141 facility.

142 (c) The minimum standards for child care facilities shall  
 143 be adopted in the rules of the department and shall address the  
 144 areas delineated in this section.

145 1. The department, in adopting rules to establish minimum  
 146 standards for child care facilities, shall recognize that  
 147 different age groups of children may require different  
 148 standards. The department may adopt different minimum standards  
 149 for facilities that serve children in different age groups,  
 150 including school-age children. The department may ~~shall also~~

151 adopt by rule a definition for after-school programs ~~child care~~  
152 which distinguishes between such ~~child care~~ programs that  
153 require child care licensure and those ~~after-school programs~~  
154 that do not ~~require licensure~~.

155 2. Notwithstanding any other provision of law to the  
156 contrary, minimum child care licensing standards shall be  
157 developed to provide for reasonable, affordable, and safe  
158 before-school and after-school care.

159 3. ~~After-school~~ Programs that otherwise meet the criteria  
160 for exclusion from child care licensure as an after-school  
161 program may provide snacks and meals through the federal  
162 Afterschool Meal Program (AMP) administered by the Department of  
163 Health in accordance with federal regulations and standards. The  
164 Department of Health shall consider meals to be provided through  
165 the AMP only if the program is actively participating in the  
166 AMP, is in good standing with the department, and the meals meet  
167 AMP requirements.

168 4. Standards, at a minimum, shall allow for a credentialed  
169 director to supervise multiple ~~before-school and~~ after-school  
170 program sites.

171 (d) Notwithstanding s. 1002.88(1), a membership  
172 organization affiliated with a national organization that holds  
173 a congressional charter under 36 U.S.C. Subtitle II, part B,  
174 chapter 311 that operates an after-school program must be  
175 licensed as a child care facility in order to directly or

176 | indirectly receive any state funding.

177 |       (2) PERSONNEL.—Minimum standards for child care personnel  
178 | shall include minimum requirements as to:

179 |       (d) Minimum training requirements for child care  
180 | personnel. Within 90 days after employment, child care personnel  
181 | shall begin training to meet the training requirements. Child  
182 | care personnel shall successfully complete such training within  
183 | 1 year after the date on which the training began, as evidenced  
184 | by passage of a competency examination.

185 |       1. Such minimum standards for training shall ensure that  
186 | all child care personnel take an approved 40-clock-hour  
187 | introductory course in child care, which shall stress, to the  
188 | extent possible, an interdisciplinary approach to the study of  
189 | children. The introductory course shall cover ~~eovers~~ at least  
190 | the following topic areas:

191 |       a. State and local rules and regulations which govern  
192 | child care.

193 |       b. Health, safety, and nutrition.

194 |       c. Identifying and reporting child abuse and neglect.

195 |       d. Child development, including typical and atypical  
196 | language, cognitive, motor, social, and self-help skills  
197 | development.

198 |       e. Observation of developmental behaviors, including using  
199 | a checklist or other similar observation tools and techniques to  
200 | determine the child's developmental age level.



201 f. Specialized areas, including computer technology for  
202 professional and classroom use and early literacy and language  
203 development of children from birth to 5 years of age, as  
204 determined by the department, for owner-operators and child care  
205 personnel of a child care facility.

206 g. Developmental disabilities, including autism spectrum  
207 disorder and Down syndrome, and early identification, use of  
208 available state and local resources, classroom integration, and  
209 positive behavioral supports for children with developmental  
210 disabilities.

211  
212 The introductory course shall cover recognition and prevention  
213 of shaken baby syndrome; prevention of sudden infant death  
214 syndrome; recognition and care of infants and toddlers with  
215 developmental disabilities, including autism spectrum disorder  
216 and Down syndrome; and early childhood brain development within  
217 the topic areas identified in this subparagraph. Within 90 days  
218 after employment, child care personnel shall begin training to  
219 meet the training requirements. Child care personnel shall  
220 successfully complete such training within 1 year after the date  
221 on which the training began, as evidenced by passage of a  
222 competency examination.

223 2. Successful completion of the 40-clock-hour introductory  
224 course shall articulate into community college credit in early  
225 childhood education, pursuant to ss. 1007.24 and 1007.25.

226 Exemption from all or a portion of the required training shall  
227 be granted to child care personnel based upon educational  
228 credentials or passage of competency examinations.

229 3. Child care personnel possessing a 2-year degree or  
230 higher that includes 6 college credit hours in early childhood  
231 development or child growth and development, or a child  
232 development associate credential or an equivalent state-approved  
233 child development associate credential, or a child development  
234 associate waiver certificate shall be automatically exempted  
235 from the training requirements in sub-subparagraphs b., d., and  
236 e.

237 4. Child care personnel working in an after-school program  
238 operated by a membership organization affiliated with a national  
239 organization may apply up to 30 clock hours of training approved  
240 by the membership organization toward the 40-clock-hour  
241 requirement.

242 a. Such child care personnel must complete the department  
243 training required on state and local rules and regulations which  
244 govern child care, and identifying and reporting child abuse and  
245 neglect.

246 b. Passage of a competency exam shall not be required for  
247 approved membership organization training applied toward the 40-  
248 clock-hour requirement.

249 c. The department shall specify in rule the membership  
250 organizations that qualify under this subparagraph and the

251 criteria for training that may be applied toward the 30 clock  
252 hours of training.

253 ~~2. The introductory course in child care shall stress, to~~  
254 ~~the extent possible, an interdisciplinary approach to the study~~  
255 ~~of children.~~

256 ~~3. The introductory course shall cover recognition and~~  
257 ~~prevention of shaken baby syndrome; prevention of sudden infant~~  
258 ~~death syndrome; recognition and care of infants and toddlers~~  
259 ~~with developmental disabilities, including autism spectrum~~  
260 ~~disorder and Down syndrome; and early childhood brain~~  
261 ~~development within the topic areas identified in this paragraph.~~

262 5.4. On an annual basis in order to further their child  
263 care skills and, if appropriate, administrative skills, child  
264 care personnel who have fulfilled the requirements for the child  
265 care training shall be required to take an additional 1  
266 continuing education unit of approved inservice training, or 10  
267 clock hours of equivalent training, as determined by the  
268 department.

269 6.5. Child care personnel shall be required to complete  
270 0.5 continuing education unit of approved training or 5 clock  
271 hours of equivalent training, as determined by the department,  
272 in early literacy and language development of children from  
273 birth to 5 years of age one time. The year that this training is  
274 completed, it shall fulfill the 0.5 continuing education unit or  
275 5 clock hours of the annual training required in subparagraph 4.

276        ~~7.6.~~ Procedures for ensuring the training of qualified  
277 child care professionals to provide training of child care  
278 personnel, including onsite training, shall be included in the  
279 minimum standards. It is recommended that the state community  
280 child care coordination agencies (central agencies) be  
281 contracted by the department to coordinate such training when  
282 possible. Other district educational resources, such as  
283 community colleges and career programs, can be designated in  
284 such areas where central agencies may not exist or are  
285 determined not to have the capability to meet the coordination  
286 requirements set forth by the department.

287        ~~8.7.~~ Training requirements shall not apply to certain  
288 occasional or part-time support staff, including, but not  
289 limited to, swimming instructors, piano teachers, dance  
290 instructors, and gymnastics instructors.

291        ~~9.8.~~ The department shall evaluate or contract for an  
292 evaluation for the general purpose of determining the status of  
293 and means to improve staff training requirements and testing  
294 procedures. The evaluation shall be conducted every 2 years. The  
295 evaluation shall include, but not be limited to, determining the  
296 availability, quality, scope, and sources of current staff  
297 training; determining the need for specialty training; and  
298 determining ways to increase inservice training and ways to  
299 increase the accessibility, quality, and cost-effectiveness of  
300 current and proposed staff training. The evaluation methodology

301 shall include a reliable and valid survey of child care  
302 personnel.

303 10.9. The child care operator shall be required to take  
304 basic training in serving children with disabilities within 5  
305 years after employment, either as a part of the introductory  
306 training or the annual 8 hours of inservice training.

307 (f) ~~By January 1, 2000,~~ A credential for child care  
308 facility directors. ~~By January 1, 2004, the credential shall be~~  
309 ~~a required minimum standard for licensing.~~

310 (6) SQUARE FOOTAGE PER CHILD.—Minimum standards shall be  
311 established by the department by rule.

312 (a) A child care facility that holds a valid license on  
313 October 1, 1992, must have a minimum of 20 square feet of usable  
314 indoor floor space for each child and a minimum of 45 square  
315 feet of usable outdoor play area for each child. Outdoor play  
316 area shall be calculated at the rate of 45 feet per child in any  
317 group using the play area at one time. A minimum play area shall  
318 be provided for one half of the licensed capacity. This standard  
319 applies as long as the child care facility remains licensed at  
320 the site occupied on October 1, 1992, and shall not be affected  
321 by any change in the ownership of the site.

322 (b)1. A child care facility that does not hold a valid  
323 license on October 1, 1992, and seeks regulatory approval to  
324 operate as a child care facility must have a minimum of 35  
325 square feet of usable floor space for each child and a minimum

326 of 45 square feet of usable outdoor play area for each child.

327 2. A membership organization affiliated with a national  
328 organization, which is licensed after July 1, 2018, and before  
329 June 30, 2020, to operate an after-school program, is exempt  
330 from facility requirements related to square footage for usable  
331 indoor floor space, square footage for usable outdoor play area,  
332 and restroom and bath facilities. Such an organization that  
333 remodels its facility or begins using a new facility on or after  
334 July 1, 2020, shall meet the square footage requirements for  
335 usable indoor floor space and usable outdoor play area in  
336 subparagraph 1., and any restroom and bath facility requirements  
337 specified in rule.

338  
339 The minimum standard for outdoor play area does not apply in  
340 calculating square footage for children under 1 year of age.  
341 However, appropriate outdoor infant equipment shall be  
342 substituted for outdoor play space. The centers shall provide  
343 facilities and equipment conducive to the physical activities  
344 appropriate for the age and physical development of the child.

345 Section 4. Paragraph (e) is added to subsection (3) of  
346 section 402.315, Florida Statutes, to read:

347 402.315 Funding; license fees.—

348 (3) The department shall collect a fee for any license it  
349 issues for a child care facility, family day care home, or large  
350 family child care home pursuant to ss. 402.305, 402.313, and

351 402.3131.

352 (e) For an after-school program licensed as a child care  
 353 facility pursuant to s. 402.305 and exempt from square footage  
 354 requirements under s. 402.305(6) (b)2., such fee shall be \$75.

355 Section 5. Subsection (6) of section 39.201, Florida  
 356 Statutes, is amended to read:

357 39.201 Mandatory reports of child abuse, abandonment, or  
 358 neglect; mandatory reports of death; central abuse hotline.—

359 (6) Information in the central abuse hotline may not be  
 360 used for employment screening, except as provided in s.  
 361 39.202(2) (a) and (h) or s. 402.302(16) ~~s. 402.302(15)~~.  
 362 Information in the central abuse hotline and the department's  
 363 automated abuse information system may be used by the  
 364 department, its authorized agents or contract providers, the  
 365 Department of Health, or county agencies as part of the  
 366 licensure or registration process pursuant to ss. 402.301-  
 367 402.319 and ss. 409.175-409.176. Pursuant to s. 39.202(2) (q),  
 368 the information in the central abuse hotline may also be used by  
 369 the Department of Education for purposes of educator  
 370 certification discipline and review.

371 Section 6. Section 402.317, Florida Statutes, is amended  
 372 to read:

373 402.317 Prolonged child care.—Notwithstanding the time  
 374 restriction specified in s. 402.302(2) ~~s. 402.302(1)~~, child care  
 375 may be provided for 24 hours or longer for a child whose parent

376 or legal guardian works a shift of 24 hours or more. The  
377 requirement that a parent or legal guardian work a shift of 24  
378 hours or more must be certified in writing by the employer, and  
379 the written certification shall be maintained in the facility by  
380 the child care provider and made available to the licensing  
381 agency. The time that a child remains in child care, however,  
382 may not exceed 72 consecutive hours in any 7-day period. During  
383 a declared state of emergency, the child care licensing agency  
384 may temporarily waive the time limitations provided in this  
385 section.

386 Section 7. Paragraph (c) of subsection (4) of section  
387 435.07, Florida Statutes, is amended to read:

388 435.07 Exemptions from disqualification.—Unless otherwise  
389 provided by law, the provisions of this section apply to  
390 exemptions from disqualification for disqualifying offenses  
391 revealed pursuant to background screenings required under this  
392 chapter, regardless of whether those disqualifying offenses are  
393 listed in this chapter or other laws.

394 (4)

395 (c) Disqualification from employment under this chapter  
396 may not be removed from, and an exemption may not be granted to,  
397 any current or prospective child care personnel, as defined in  
398 s. 402.302(4) ~~s. 402.302(3)~~, and such a person is disqualified  
399 from employment as child care personnel, regardless of any  
400 previous exemptions from disqualification, if the person has



401 | been registered as a sex offender as described in 42 U.S.C. s.  
402 | 9858f(c)(1)(C) or has been arrested for and is awaiting final  
403 | disposition of, has been convicted or found guilty of, or  
404 | entered a plea of guilty or nolo contendere to, regardless of  
405 | adjudication, or has been adjudicated delinquent and the record  
406 | has not been sealed or expunged for, any offense prohibited  
407 | under any of the following provisions of state law or a similar  
408 | law of another jurisdiction:

409 |       1. A felony offense prohibited under any of the following  
410 | statutes:

411 |       a. Chapter 741, relating to domestic violence.

412 |       b. Section 782.04, relating to murder.

413 |       c. Section 782.07, relating to manslaughter, aggravated  
414 | manslaughter of an elderly person or disabled adult, aggravated  
415 | manslaughter of a child, or aggravated manslaughter of an  
416 | officer, a firefighter, an emergency medical technician, or a  
417 | paramedic.

418 |       d. Section 784.021, relating to aggravated assault.

419 |       e. Section 784.045, relating to aggravated battery.

420 |       f. Section 787.01, relating to kidnapping.

421 |       g. Section 787.025, relating to luring or enticing a  
422 | child.

423 |       h. Section 787.04(2), relating to leading, taking,  
424 | enticing, or removing a minor beyond the state limits, or  
425 | concealing the location of a minor, with criminal intent pending

426 custody proceedings.

427 i. Section 787.04(3), relating to leading, taking,  
428 enticing, or removing a minor beyond the state limits, or  
429 concealing the location of a minor, with criminal intent pending  
430 dependency proceedings or proceedings concerning alleged abuse  
431 or neglect of a minor.

432 j. Section 794.011, relating to sexual battery.

433 k. Former s. 794.041, relating to sexual activity with or  
434 solicitation of a child by a person in familial or custodial  
435 authority.

436 l. Section 794.05, relating to unlawful sexual activity  
437 with certain minors.

438 m. Section 794.08, relating to female genital mutilation.

439 n. Section 806.01, relating to arson.

440 o. Section 826.04, relating to incest.

441 p. Section 827.03, relating to child abuse, aggravated  
442 child abuse, or neglect of a child.

443 q. Section 827.04, relating to contributing to the  
444 delinquency or dependency of a child.

445 r. Section 827.071, relating to sexual performance by a  
446 child.

447 s. Chapter 847, relating to child pornography.

448 t. Section 985.701, relating to sexual misconduct in  
449 juvenile justice programs.

450 2. A misdemeanor offense prohibited under any of the

451 following statutes:

452 a. Section 784.03, relating to battery, if the victim of  
453 the offense was a minor.

454 b. Section 787.025, relating to luring or enticing a  
455 child.

456 c. Chapter 847, relating to child pornography.

457 3. A criminal act committed in another state or under  
458 federal law which, if committed in this state, constitutes an  
459 offense prohibited under any statute listed in subparagraph 1.  
460 or subparagraph 2.

461 Section 8. Subsection (1) of section 1002.59, Florida  
462 Statutes, is amended to read:

463 1002.59 Emergent literacy and performance standards  
464 training courses.—

465 (1) The office shall adopt minimum standards for one or  
466 more training courses in emergent literacy for prekindergarten  
467 instructors. Each course must comprise 5 clock hours and provide  
468 instruction in strategies and techniques to address the age-  
469 appropriate progress of prekindergarten students in developing  
470 emergent literacy skills, including oral communication,  
471 knowledge of print and letters, phonemic and phonological  
472 awareness, and vocabulary and comprehension development. Each  
473 course must also provide resources containing strategies that  
474 allow students with disabilities and other special needs to  
475 derive maximum benefit from the Voluntary Prekindergarten

476 Education Program. Successful completion of an emergent literacy  
 477 training course approved under this section satisfies  
 478 requirements for approved training in early literacy and  
 479 language development under ss. 402.305(2)(d)6. ~~402.305(2)(d)5.~~,  
 480 402.313(6), and 402.3131(5).

481 Section 9. Paragraph (w) of subsection (2) of section  
 482 1002.82, Florida Statutes, is amended to read:

483 1002.82 Office of Early Learning; powers and duties.—

484 (2) The office shall:

485 (w) Establish staff-to-children ratios that do not exceed  
 486 the requirements of s. 402.302(9) or (12) ~~s. 402.302(8) or (11)~~  
 487 or s. 402.305(4), as applicable, for school readiness program  
 488 providers.

489 Section 10. Paragraph (e) of subsection (1) of section  
 490 1002.88, Florida Statutes, is amended to read:

491 1002.88 School readiness program provider standards;  
 492 eligibility to deliver the school readiness program.—

493 (1) To be eligible to deliver the school readiness  
 494 program, a school readiness program provider must:

495 (e) Employ child care personnel, as defined in s.  
 496 402.302(4) ~~s. 402.302(3)~~, who have satisfied the screening  
 497 requirements of chapter 402 and fulfilled the training  
 498 requirements of the office.

499 Section 11. For fiscal year 2018-2019, the sum of \$47,040  
 500 in nonrecurring funds is appropriated from the Operations and

CS/CS/HB 1129

2018

501 | Maintenance Trust Fund to the Department of Children and  
502 | Families for the purpose of implementing technology changes  
503 | necessary to implement this act.

504 |       Section 12. This act shall take effect July 1, 2018.