

Bill No. SB 1600

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Proposed Committee Substitute by the Committee on Children and Families

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A bill to be entitled  
An act relating to child care; transferring,  
renumbering, and amending s. 402.3017, F.S.;  
revising requirements for the Teacher Education  
and Compensation Helps scholarship program;  
amending s. 402.302, F.S.; redefining the term  
"screening"; authorizing the screening of child  
care volunteers; amending s. 402.3055, F.S.;  
requiring an applicant, owner, or operator of a  
child care facility to sign an affidavit  
attesting to the accuracy of certain  
information; authorizing 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;  
amending s. 402.308, F.S.; requiring family day  
care homes that are required to be licensed and  
large family child care homes to have a license  
that is renewed annually; authorizing the  
Department of Children and Family Services to  
apply the specified procedures for  
administering a license to family day care  
homes and large family child care homes;  
amending s. 402.309, F.S.; authorizing 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; providing that a  
provisional license or registration may not be

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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

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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; repealing s. 402.3131(1)(a), F.S.,

6           relating to the authority of the department or

7           local licensing agency to impose an

8           administrative fine against a large family

9           child care home; providing an effective date.

10

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

12

13           Section 1. Section 402.3017, Florida Statutes, is

14 transferred, renumbered as section 411.0103, Florida Statutes,

15 and amended to read:

16           411.0103 ~~402.3017~~ Teacher Education and Compensation

17 Helps (TEACH) scholarship program.--

18           (1) The Legislature finds that the level of early

19 child care teacher education and training is a key predictor

20 for determining program quality. The Legislature also finds

21 that low wages for child care workers prevent many from

22 obtaining increased training and education and contribute to

23 high turnover rates. The Legislature therefore intends to help

24 fund a program which links teacher training and education to

25 compensation and commitment to the field of early childhood

26 education.

27           (2) The Agency for Workforce Innovation ~~Department~~

28 ~~of Children and Family Services~~ is authorized to contract for

29 the administration of the Teacher Education and Compensation

30 Helps (TEACH) scholarship program, which provides educational

31 scholarships to caregivers and administrators of early

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1 childhood programs, family day care homes, and large family  
2 child care homes.

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

6 ~~(4) For the 2004-2005 fiscal year only, the Agency for~~  
7 ~~Workforce Innovation shall administer this section. This~~  
8 ~~subsection expires July 1, 2005.~~

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

11 402.302 Definitions.--

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

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

28 402.3055 Child care personnel requirements.--

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

30 (a) The department or local licensing agency shall  
31 require that the application for a license to operate a child

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1 care facility, family day care home, or large family child  
2 care home license contain a question that specifically asks  
3 the applicant, owner, or operator if he or she has ever had a  
4 license denied, revoked, or suspended in any state or  
5 jurisdiction or has been the subject of a disciplinary action  
6 or been fined while employed in a child care facility, family  
7 day care home, or large family child care home. The applicant,  
8 owner, or operator shall sign an affidavit attesting ~~attest~~ to  
9 the accuracy of the information requested under penalty of  
10 perjury.

11 1. If the applicant, owner, or operator admits that he  
12 or she has been a party in such action, the department or  
13 local licensing agency shall review the nature of the  
14 suspension, revocation, disciplinary action, or fine before  
15 granting the applicant a license to operate a child care  
16 facility, family day care home, or large family child care  
17 home.

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

22 (b) The employer of a child care facility, family day  
23 care home, or large family child care home ~~employer~~ shall  
24 require that the application for a child care personnel  
25 position contain a question that specifically asks the  
26 applicant if he or she has ever worked in a facility or home  
27 that has had a license denied, revoked, or suspended in this  
28 or any other state ~~or jurisdiction~~ or if the applicant has  
29 been the subject of a disciplinary action or been fined while  
30 he or she was employed in a child care facility or home. The  
31 applicant shall attest to the accuracy of the information

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1 requested under penalty of perjury. If the applicant admits  
2 that he or she has been a party in such action, the employer  
3 shall review the nature of the denial, suspension, revocation,  
4 disciplinary action, or fine before the applicant is hired.

5 (2) EXCLUSION FROM OWNING, OPERATING, OR BEING  
6 EMPLOYED BY A CHILD CARE FACILITY OR OTHER CHILD CARE PROGRAM;  
7 HEARINGS PROVIDED.--

8 (a) The department or local licensing agency shall  
9 deny, suspend, or revoke a license or pursue other remedies  
10 provided in s. 402.310, s. 402.312, or s. 402.319 in addition  
11 to or in lieu of denial, suspension, or revocation for failure  
12 to comply with this section. The disciplinary actions taken  
13 ~~determination to be made~~ by the department or the local  
14 licensing agency and the procedure for hearing for applicants  
15 and licensees shall be in accordance with s. 402.310.

16 (b) When the department or the local licensing agency  
17 has reasonable cause to believe that grounds for denial or  
18 termination of employment exist, it shall notify, in writing,  
19 the applicant, licensee, or other child care program and the  
20 child care personnel affected, stating the specific grounds  
21 indicating ~~record which indicates~~ noncompliance with the  
22 standards in s. 402.305(2).

23 (c) When the department is the agency initiating the  
24 allegations of ~~statement regarding~~ noncompliance, the  
25 procedures established for hearing under chapter 120 shall be  
26 available to the applicant, licensee, or other child care  
27 program and to the affected child care personnel, in order to  
28 present evidence relating either to the accuracy of the basis  
29 of exclusion or to the denial of an exemption from  
30 disqualification.

31 (d) When a local licensing agency is the agency

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1 initiating the allegations of ~~statement regarding~~  
2 noncompliance of an employee with the standards contained in  
3 s. 402.305(2), the employee, applicant, licensee, or other  
4 child care program has 15 days from receipt of the ~~time of~~  
5 written notification of the agency's finding of noncompliance  
6 to make a written request for a hearing. If a written request  
7 for a hearing is not received in that time, the permanent  
8 employee, applicant, licensee, or other child care program is  
9 presumed to accept the finding of noncompliance.

10 (e) If a request for a hearing is made to the local  
11 licensing agency, a hearing shall be held within 30 days and  
12 shall be conducted by an individual designated by the county  
13 commission.

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

20 (g) Refusal on the part of an applicant or licensee to  
21 dismiss child care personnel who have been found to be in  
22 noncompliance with personnel standards of s. 402.305(2) shall  
23 result in automatic denial or revocation of the license in  
24 addition to any other remedies pursued by the department or  
25 local licensing agency.

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

28 402.308 Issuance of license.--

29 (1) ANNUAL LICENSING.--Every child care facility,  
30 family day care home requiring licensure, or large family  
31 child care home in the state shall have a license that ~~which~~

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1 shall be renewed annually.

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

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

17 (b) Before renewing ~~Prior to the renewal of~~ a license,  
18 the department shall reexamine the child care facility, family  
19 day care home, or large family child care home, including in  
20 that process the examination of the premises and those records  
21 of the facility or home as required under s. 402.305, to  
22 determine that minimum standards for licensing continue to be  
23 met.

24 (c) The department shall coordinate all inspections of  
25 child care facilities, family day care homes, and large family  
26 child care homes. A child care provider facility is not  
27 required to implement a recommendation of one agency which  
28 ~~that~~ is in conflict with a recommendation of another agency if  
29 the such conflict arises from ~~due to~~ uncoordinated  
30 inspections. Any conflict in recommendations shall be resolved  
31 by the secretary of the department within 15 days after

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1 written notice that ~~the such~~ conflict exists.

2 (d) The department shall issue or renew a license upon  
3 receipt of the license fee and upon being satisfied that all  
4 standards required by ss. 402.301-402.319 have been met. A  
5 license may be issued if all the screening materials have been  
6 timely submitted; however, a license may not be issued or  
7 renewed if any of the child care personnel at the applicant  
8 facility or home have failed the screening required by ss.  
9 402.305(2) and 402.3055.

10 Section 5. Section 402.309, Florida Statutes, is  
11 amended to read:

12 402.309 Provisional license or registration.--

13 (1) The local licensing agency or the department,  
14 whichever is authorized to license child care facilities in a  
15 county, may issue a provisional license for child care  
16 facilities, family day care homes, or large family child care  
17 homes, or a provisional registration for family day care homes  
18 to applicants for an initial ~~a~~ license or registration or to  
19 licensees or registrants seeking a renewal who are unable to  
20 meet conform to all the standards provided for in ss.  
21 402.301-402.319.

22 (2) ~~A No~~ provisional license or registration may not  
23 be issued unless the operator or owner makes adequate  
24 provisions for the health and safety of the child. A  
25 provisional license may be issued for a child care facility if  
26 all of the screening materials have been timely submitted.  
27 ~~however,~~ A provisional license or registration may not be  
28 issued unless the child care facility, family day care home,  
29 or large family child care home is in compliance with the  
30 requirements for screening of child care personnel in ss.  
31 402.305, ~~and~~ 402.3055, 402.313, and 402.3131, respectively.

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

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

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

13           Section 6. Section 402.310, Florida Statutes, is  
 14 amended to read:

15           402.310 Disciplinary actions; hearings upon denial,  
 16 suspension, or revocation of license or registration;  
 17 administrative fines.--

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

22           1. Impose an administrative fine not to exceed \$100  
 23 per violation, per day, for the violation of any provision of  
 24 ~~ss. 402.301-402.319 or rules adopted thereunder.~~ However, if  
 25 ~~where~~ the violation could or does cause death or serious harm,  
 26 the department or local licensing agency may impose an  
 27 administrative fine, not to exceed \$500 per violation per day,  
 28 in addition to or in lieu of any other disciplinary action  
 29 described in this section.

30           2. Convert a license or registration to probation  
 31 status and require the licensee or registrant to comply with

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1 the terms of probation. A probation-status license or  
2 registration may not be issued for a period that exceeds 6  
3 months and the license or registration may not be renewed. A  
4 probation-status license or registration may be suspended or  
5 revoked if periodic inspection by the department or local  
6 licensing agency finds that the probation-status licensee or  
7 registrant is not in compliance with the terms of probation or  
8 that the probation-status licensee or registrant is not making  
9 sufficient progress towards compliance with ss.  
10 402.301-402.319.

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

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

15 1. The severity of the violation, including the  
16 probability that death or serious harm to the health or safety  
17 of any person will result or has resulted, the severity of the  
18 actual or potential harm, and the extent to which the  
19 provisions of ss. 402.301-402.319 have been violated.

20 2. Actions taken by the licensee or registrant to  
21 correct the violation or to remedy complaints.

22 3. Any previous violations of the licensee or  
23 registrant.

24 (c) The department shall adopt rules to:

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

29 2. Establish a uniform system of procedures to impose  
30 disciplinary sanctions for violations of ss. 402.301-402-319.  
31 The uniform system of procedures must provide for the

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1 consistent application of disciplinary actions across  
2 districts and a progressively increasing level of penalties  
3 from predisciplinary actions, such as efforts to assist  
4 licensees or registrants to correct the statutory or  
5 regulatory violations, to severe disciplinary sanctions for  
6 actions that jeopardize the health and safety of children,  
7 such as for the deliberate misuse of medications. The  
8 department shall implement this subparagraph on January 1,  
9 2006, and the implementation is not contingent upon a specific  
10 appropriation.

11 (d) The disciplinary sanctions set forth in this  
12 section apply to licensed child care facilities, licensed  
13 large family child care homes, and licensed or registered  
14 family day care homes.

15 (2) When the department has reasonable cause to  
16 believe that grounds exist for the denial, suspension, or  
17 revocation of a license or registration; the conversion of a  
18 license or registration to probation status; or the imposition  
19 of an administrative fine ~~exist~~, it shall determine the matter  
20 in accordance with procedures prescribed in chapter 120. When  
21 the local licensing agency has reasonable cause to believe  
22 that grounds exist for the denial, suspension, or revocation  
23 of a license or registration; the conversion of a license or  
24 registration to probation status; or the imposition of an  
25 administrative fine ~~exist~~, it shall notify the applicant,  
26 registrant, or licensee in writing, stating the grounds upon  
27 which the license or registration is being denied, suspended,  
28 or revoked or an administrative fine is being imposed. If the  
29 applicant, registrant, or licensee makes no written request  
30 for a hearing to the local licensing agency within 15 days  
31 after from receipt of the such notice, the license or

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1 registration shall be deemed denied, suspended, or revoked;  
2 the license or registration shall be converted to probation  
3 status; or an administrative fine shall be imposed.

4 (3) If a request for a hearing is made to the local  
5 licensing agency, a hearing shall be held within 30 days and  
6 shall be conducted by an individual designated by the county  
7 commission.

8 (4) An applicant, registrant, or licensee has ~~shall~~  
9 ~~have~~ the right to appeal a decision of the local licensing  
10 agency to a representative of the department. Any required  
11 hearing shall be held in the county in which the child care  
12 facility, family day care home, or large family child care  
13 home is being operated or is to be established. The hearing  
14 shall be conducted in accordance with ~~the provisions of~~  
15 chapter 120.

16 Section 7. Section 402.3105, Florida Statutes, is  
17 created to read:

18 402.3105 Central database on violations, citations,  
19 and penalties imposed against child care facilities, family  
20 day care homes, and large family child care homes.--

21 (1) The department, in consultation with the state  
22 technology office, shall establish and maintain a central  
23 database to record and compile all information from the  
24 service districts and local licensing agencies concerning  
25 violations, citations, and penalties imposed against child  
26 care facilities, family day care homes, and large family child  
27 care homes regulated by or registered with the department or  
28 local licensing agency. The department shall develop the  
29 central database under chapter 282 and shall administer,  
30 operate, and maintain the database following the policies and  
31 procedures of the state technology office.

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1       (2) The department shall retain information in the  
2 database in order to monitor and evaluate the consistency and  
3 effectiveness of the service districts' and local licensing  
4 agencies' investigations and the enforcement of compliance  
5 with licensing and registration requirements by child care  
6 facilities, family day care homes, and large family child care  
7 homes. The database must have the capability to produce  
8 statistical reports of patterns of violations, citations, and  
9 penalties, including the classes and types of violations, and  
10 any actions taken to suspend or revoke the license or  
11 registration of a child care facility, family day care home,  
12 or large family child care home.

13       (3) The central database shall be an informational  
14 resource for evaluating child care facilities, family day care  
15 homes, and large family child care homes for license or  
16 registration renewals but may not be used for employment  
17 screening. The database information is open to the public and  
18 is subject to chapter 119.

19       (4) The department shall implement this section  
20 beginning on July 1, 2005, and the implementation is not  
21 contingent upon a specific appropriation.

22       Section 8. Subsections (1) and (13) of section  
23 402.313, Florida Statutes, are amended to read:

24       402.313 Family day care homes.--

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

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1 ~~authority to license family day care homes under contract for~~  
2 ~~the purchase of service system in the subsidized child care~~  
3 ~~program.~~

4 (a) If not subject to license, family day care homes  
5 shall register annually with the department, providing the  
6 following information:

- 7 1. The name and address of the home.
- 8 2. The name of the operator.
- 9 3. The number of children served.
- 10 4. Proof of a written plan to provide at least one  
11 other competent adult to be available to substitute for the  
12 operator in an emergency. This plan shall include the name,  
13 address, and telephone number of the designated substitute.
- 14 5. Proof of screening and background checks.
- 15 6. Proof of successful completion of the 30-hour  
16 training course, as evidenced by passage of a competency  
17 examination, which shall include:
  - 18 a. State and local rules and regulations that govern  
19 child care.
  - 20 b. Health, safety, and nutrition.
  - 21 c. Identifying and reporting child abuse and neglect.
  - 22 d. Child development, including typical and atypical  
23 language development; and cognitive, motor, social, and  
24 self-help skills development.
  - 25 e. Observation of developmental behaviors, including  
26 using a checklist or other similar observation tools and  
27 techniques to determine a child's developmental level.
  - 28 f. Specialized areas, including early literacy and  
29 language development of children from birth to 5 years of age,  
30 as determined by the department, for owner-operators of family  
31 day care homes.

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1           7. Proof that immunization records are kept current.

2           8. Proof of completion of the required continuing  
3 education units or clock hours.

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

7           (b)(e) A family day care home that is not required to  
8 be licensed under this subsection ~~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 adopt a rule establishing  
16 ~~by rule, establish~~ minimum standards for family day care homes  
17 that are required to be licensed by county licensing ordinance  
18 or county licensing resolution or that voluntarily choose to  
19 be licensed. The standards should include requirements for  
20 staffing, training, maintenance of immunization records,  
21 minimum health and safety standards, reduced standards for the  
22 regulation of child care during evening hours by  
23 municipalities and counties, and enforcement of standards.

24           Section 9. Paragraph (a) of subsection (1) of section  
25 402.3131, Florida Statutes, is repealed.

26           Section 10. Effective October 1, 2005, the child care  
27 regulation program is transferred from the Department of  
28 Children and Family Services to the Agency for Workforce  
29 Innovation by a type two transfer as defined in section  
30 20.06(2), Florida Statutes.

31           Section 11. This act shall take effect July 1, 2005.