

By Senator Garcia

40-01553-10

20102394

1 A bill to be entitled

2 An act relating to early learning; providing for a
3 type two transfer of the Office of Early Learning
4 within the Department of Education and the child care
5 facility licensing responsibilities of the Department
6 of Children and Family Services to the Office of Early
7 Learning within the Agency for Workforce Innovation;
8 amending ss. 402.281, 402.302, 402.305, 402.30501,
9 402.3051, 402.317, 943.0585, 943.059, 1002.67,
10 1002.69, 1002.73, and 1002.79, F.S.; conforming
11 provisions and cross-references to changes made by the
12 act; providing for the continued validity of child
13 care facility licenses and registrations issued under
14 ch. 402, F.S.; providing for conforming legislation;
15 providing for assistance of certain legislative
16 substantive committees or councils by the Division of
17 Statutory Revision for certain purposes; providing an
18 effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. (1) All of the powers, duties, functions,
23 records, personnel, and property; unexpended balances of
24 appropriations, allocations, and other funds; administrative
25 authority; administrative rules; pending issues; and existing
26 contracts of the Office of Early Learning within the Department
27 of Education are transferred by a type two transfer, pursuant to
28 s. 20.06(2), Florida Statutes, to the Office of Early Learning
29 within the Agency for Workforce Innovation. The Office of Early

40-01553-10

20102394

30 Learning shall administer the state's school readiness system,
31 the Voluntary Prekindergarten Education Program, and child care
32 facility licensing.

33 (2) All of the powers, duties, functions, records,
34 personnel, and property; unexpended balances of appropriations,
35 allocations, and other funds; administrative authority;
36 administrative rules; pending issues; and existing contracts of
37 the Department of Children and Family Services relating to child
38 care facility licensing standards are transferred by a type two
39 transfer, pursuant to s. 20.06(2), Florida Statutes, to the
40 Office of Early Learning within the Agency for Workforce
41 Innovation.

42 Section 2. Subsection (4) of section 402.281, Florida
43 Statutes, is amended to read:

44 402.281 Gold Seal Quality Care program.—

45 (4) The Agency for Workforce Innovation ~~Department of~~
46 ~~Children and Family Services~~ shall adopt rules under ss.
47 120.536(1) and 120.54 which provide criteria and procedures for
48 reviewing and approving accrediting associations for
49 participation in the Gold Seal Quality Care program, conferring
50 and revoking designations of Gold Seal Quality Care providers,
51 and classifying violations.

52 Section 3. Present subsections (1) through (16) of section
53 402.302, Florida Statutes, are redesignated as subsections (2)
54 through (17), respectively, and a new subsection (1) is added to
55 that section, to read:

56 402.302 Definitions.—

57 (1) "Agency" means the Agency for Workforce Innovation.

58 Section 4. Section 402.305, Florida Statutes, is amended to

40-01553-10

20102394

59 read:

60 402.305 Licensing standards; child care facilities.—

61 (1) LICENSING STANDARDS.—The Agency for Workforce
62 Innovation ~~department~~ shall establish licensing standards that
63 each licensed child care facility must meet regardless of the
64 origin or source of the fees used to operate the facility or the
65 type of children served by the facility.

66 (a) The standards shall be designed to address the
67 following areas:

68 1. The health, sanitation, safety, and adequate physical
69 surroundings for all children in child care.

70 2. The health and nutrition of all children in child care.

71 3. The child development needs of all children in child
72 care.

73 (b) All standards established under ss. 402.301-402.319
74 must be consistent with the rules adopted by the State Fire
75 Marshal for child care facilities. However, if the facility is
76 operated in a public school, the agency ~~department~~ shall use the
77 public school fire code, as provided in the rules of the State
78 Board of Education, as the minimum standard for firesafety.

79 (c) The minimum standards for child care facilities shall
80 be adopted in the rules of the agency ~~department~~ and shall
81 address the areas delineated in this section. The agency
82 ~~department~~, in adopting rules to establish minimum standards for
83 child care facilities, shall recognize that different age groups
84 of children may require different standards. The agency
85 ~~department~~ may adopt different minimum standards for facilities
86 that serve children in different age groups, including school-
87 age children. The agency ~~department~~ shall also adopt by rule a

40-01553-10

20102394

88 definition for child care which distinguishes between child care
89 programs that require child care licensure and after-school
90 programs that do not require licensure. Notwithstanding any
91 other provision of law to the contrary, minimum child care
92 licensing standards shall be developed to provide for
93 reasonable, affordable, and safe before-school and after-school
94 care. Standards, at a minimum, shall allow for a credentialed
95 director to supervise multiple before-school and after-school
96 sites.

97 (2) PERSONNEL.—Minimum standards for child care personnel
98 shall include minimum requirements as to:

99 (a) Good moral character based upon screening. This
100 screening shall be conducted as provided in chapter 435, using
101 the level 2 standards for screening set forth in that chapter.

102 (b) The agency ~~department~~ may grant exemptions from
103 disqualification from working with children or the
104 developmentally disabled as provided in s. 435.07.

105 (c) Minimum age requirements. Such minimum standards shall
106 prohibit a person under the age of 21 from being the operator of
107 a child care facility and a person under the age of 16 from
108 being employed at such facility unless such person is under
109 direct supervision and is not counted for the purposes of
110 computing the personnel-to-child ratio.

111 (d) Minimum training requirements for child care personnel.

112 1. Such minimum standards for training shall ensure that
113 all child care personnel take an approved 40-clock-hour
114 introductory course in child care, which course covers at least
115 the following topic areas:

116 a. State and local rules and regulations which govern child

40-01553-10

20102394

117 care.

118 b. Health, safety, and nutrition.

119 c. Identifying and reporting child abuse and neglect.

120 d. Child development, including typical and atypical
121 language, cognitive, motor, social, and self-help skills
122 development.

123 e. Observation of developmental behaviors, including using
124 a checklist or other similar observation tools and techniques to
125 determine the child's developmental age level.

126 f. Specialized areas, including computer technology for
127 professional and classroom use and early literacy and language
128 development of children from birth to 5 years of age, as
129 determined by the agency ~~department~~, for owner-operators and
130 child care personnel of a child care facility.

131

132 Within 90 days after employment, child care personnel shall
133 begin training to meet the training requirements. Child care
134 personnel shall successfully complete such training within 1
135 year after the date on which the training began, as evidenced by
136 passage of a competency examination. Successful completion of
137 the 40-clock-hour introductory course shall articulate into
138 community college credit in early childhood education, pursuant
139 to ss. 1007.24 and 1007.25. Exemption from all or a portion of
140 the required training shall be granted to child care personnel
141 based upon educational credentials or passage of competency
142 examinations. Child care personnel possessing a 2-year degree or
143 higher that includes 6 college credit hours in early childhood
144 development or child growth and development, or a child
145 development associate credential or an equivalent state-approved

40-01553-10

20102394

146 child development associate credential, or a child development
147 associate waiver certificate shall be automatically exempted
148 from the training requirements in sub-subparagraphs b., d., and
149 e.

150 2. The introductory course in child care shall stress, to
151 the extent possible, an interdisciplinary approach to the study
152 of children.

153 3. The introductory course shall cover recognition and
154 prevention of shaken baby syndrome, prevention of sudden infant
155 death syndrome, and early childhood brain development within the
156 topic areas identified in this paragraph.

157 4. On an annual basis in order to further their child care
158 skills and, if appropriate, administrative skills, child care
159 personnel who have fulfilled the requirements for the child care
160 training shall be required to take an additional 1 continuing
161 education unit of approved inservice training, or 10 clock hours
162 of equivalent training, as determined by the agency ~~department~~.

163 5. Child care personnel shall be required to complete 0.5
164 continuing education unit of approved training or 5 clock hours
165 of equivalent training, as determined by the agency ~~department~~,
166 in early literacy and language development of children from
167 birth to 5 years of age one time. The year that this training is
168 completed, it shall fulfill the 0.5 continuing education unit or
169 5 clock hours of the annual training required in subparagraph 4.

170 6. Procedures for ensuring the training of qualified child
171 care professionals to provide training of child care personnel,
172 including onsite training, shall be included in the minimum
173 standards. It is recommended that the state community child care
174 coordination agencies (central agencies) be contracted by the

40-01553-10

20102394__

175 agency ~~department~~ to coordinate such training when possible.
176 Other district educational resources, such as community colleges
177 and career programs, can be designated in such areas where
178 central agencies may not exist or are determined not to have the
179 capability to meet the coordination requirements set forth by
180 the agency ~~department~~.

181 7. Training requirements shall not apply to certain
182 occasional or part-time support staff, including, but not
183 limited to, swimming instructors, piano teachers, dance
184 instructors, and gymnastics instructors.

185 8. The agency ~~department~~ shall evaluate or contract for an
186 evaluation for the general purpose of determining the status of
187 and means to improve staff training requirements and testing
188 procedures. The evaluation shall be conducted every 2 years. The
189 evaluation shall include, but not be limited to, determining the
190 availability, quality, scope, and sources of current staff
191 training; determining the need for specialty training; and
192 determining ways to increase inservice training and ways to
193 increase the accessibility, quality, and cost-effectiveness of
194 current and proposed staff training. The evaluation methodology
195 shall include a reliable and valid survey of child care
196 personnel.

197 9. The child care operator shall be required to take basic
198 training in serving children with disabilities within 5 years
199 after employment, either as a part of the introductory training
200 or the annual 8 hours of inservice training.

201 (e) Periodic health examinations.

202 (f) By January 1, 2000, a credential for child care
203 facility directors. By January 1, 2004, the credential shall be

40-01553-10

20102394

204 a required minimum standard for licensing.

205 (3) MINIMUM STAFF CREDENTIALS.—By July 1, 1996, for every
206 20 children in a licensed child care facility, if the facility
207 operates 8 hours or more per week, one of the child care
208 personnel in the facility must have:

209 (a) A child development associate credential;

210 (b) A child care professional credential, unless the agency
211 ~~department~~ determines that such child care professional
212 credential is not equivalent to or greater than a child
213 development associate credential; or

214 (c) A credential that is equivalent to or greater than the
215 credential required in paragraph (a) or paragraph (b).

216

217 The agency ~~department~~ shall establish by rule those hours of
218 operation, such as during rest periods and transitional periods,
219 when this subsection does not apply.

220 (4) STAFF-TO-CHILDREN RATIO.—

221 (a) Minimum standards for the care of children in a
222 licensed child care facility as established by rule of the
223 agency ~~department~~ must include:

224 1. For children from birth through 1 year of age, there
225 must be one child care personnel for every four children.

226 2. For children 1 year of age or older, but under 2 years
227 of age, there must be one child care personnel for every six
228 children.

229 3. For children 2 years of age or older, but under 3 years
230 of age, there must be one child care personnel for every 11
231 children.

232 4. For children 3 years of age or older, but under 4 years

40-01553-10

20102394

233 of age, there must be one child care personnel for every 15
234 children.

235 5. For children 4 years of age or older, but under 5 years
236 of age, there must be one child care personnel for every 20
237 children.

238 6. For children 5 years of age or older, there must be one
239 child care personnel for every 25 children.

240 7. When children 2 years of age and older are in care, the
241 staff-to-children ratio shall be based on the age group with the
242 largest number of children within the group.

243 (b) This subsection does not apply to nonpublic schools and
244 their integral programs as defined in s. 402.3025(2)(d)1. In
245 addition, an individual participating in a community service
246 program activity under s. 445.024(1)(e), or a work experience
247 activity under s. 445.024(1)(f), at a child care facility may
248 not be considered in calculating the staff-to-children ratio.

249 (5) PHYSICAL FACILITIES.—Minimum standards shall include
250 requirements for building conditions, indoor play space, outdoor
251 play space, napping space, bathroom facilities, food preparation
252 facilities, outdoor equipment, and indoor equipment. Because of
253 the nature and duration of drop-in child care, outdoor play
254 space and outdoor equipment shall not be required for licensure;
255 however, if such play space and equipment are provided, then the
256 minimum standards shall apply to drop-in child care. With
257 respect to minimum standards for physical facilities of a child
258 care program for school-age children which is operated in a
259 public school facility, the agency ~~department~~ shall adopt the
260 State Uniform Building Code for Public Educational Facilities
261 Construction as the minimum standards, regardless of the

40-01553-10

20102394

262 operator of the program. The Legislature intends that if a child
263 care program for school-age children is operated in a public
264 school, the program need not conform to standards for physical
265 facilities other than the standards adopted by the Commissioner
266 of Education.

267 (6) SQUARE FOOTAGE PER CHILD.—Minimum standards shall be
268 established by the agency ~~department~~ by rule.

269 (a) A child care facility that holds a valid license on
270 October 1, 1992, must have a minimum of 20 square feet of usable
271 indoor floor space for each child and a minimum of 45 square
272 feet of usable outdoor play area for each child. Outdoor play
273 area shall be calculated at the rate of 45 feet per child in any
274 group using the play area at one time. A minimum play area shall
275 be provided for one half of the licensed capacity. This standard
276 applies as long as the child care facility remains licensed at
277 the site occupied on October 1, 1992, and shall not be affected
278 by any change in the ownership of the site.

279 (b) A child care facility that does not hold a valid
280 license on October 1, 1992, and seeks regulatory approval to
281 operate as a child care facility must have a minimum of 35
282 square feet of usable floor space for each child and a minimum
283 of 45 square feet of usable outdoor play area for each child.

284
285 The minimum standard for outdoor play area does not apply in
286 calculating square footage for children under 1 year of age.
287 However, appropriate outdoor infant equipment shall be
288 substituted for outdoor play space. The centers shall provide
289 facilities and equipment conducive to the physical activities
290 appropriate for the age and physical development of the child.

40-01553-10

20102394

291 (7) SANITATION AND SAFETY.—

292 (a) Minimum standards shall include requirements for
293 sanitary and safety conditions, first aid treatment, emergency
294 procedures, and pediatric cardiopulmonary resuscitation. The
295 minimum standards shall require that at least one staff person
296 trained in cardiopulmonary resuscitation, as evidenced by
297 current documentation of course completion, must be present at
298 all times that children are present.

299 (b) In the case of a child care program for school-age
300 children attending before and after school programs on the
301 public school site, the agency ~~department~~ shall use the public
302 school fire code, as adopted in the rules of the State Board of
303 Education, as the minimum standard for firesafety. In the case
304 of a child care program for school-age children attending
305 before-school and after-school programs on a site operated by a
306 municipality, the agency ~~department~~ shall adopt rules for such
307 site and intended use.

308 (c) Some type of communications system, such as a pocket
309 pager or beeper, shall be provided to a parent whose child is in
310 drop-in child care to ensure the immediate return of the parent
311 to the child, if necessary.

312 (8) NUTRITIONAL PRACTICES.—Minimum standards shall include
313 requirements for the provision of meals or snacks of a quality
314 and quantity to assure that the nutritional needs of the child
315 are met.

316 (9) ADMISSIONS AND RECORDKEEPING.—

317 (a) Minimum standards shall include requirements for
318 preadmission and periodic health examinations, requirements for
319 immunizations, and requirements for maintaining emergency

40-01553-10

20102394

320 information and health records on all children.

321 (b) During the months of August and September of each year,
322 each child care facility shall provide parents of children
323 enrolled in the facility detailed information regarding the
324 causes, symptoms, and transmission of the influenza virus in an
325 effort to educate those parents regarding the importance of
326 immunizing their children against influenza as recommended by
327 the Advisory Committee on Immunization Practices of the Centers
328 for Disease Control and Prevention.

329 (c) Because of the nature and duration of drop-in child
330 care, requirements for preadmission and periodic health
331 examinations and requirements for medically signed records of
332 immunization required for child care facilities shall not apply.
333 A parent of a child in drop-in child care shall, however, be
334 required to attest to the child's health condition and the type
335 and current status of the child's immunizations.

336 (d) Any child shall be exempt from medical or physical
337 examination or medical or surgical treatment upon written
338 request of the parent or guardian of such child who objects to
339 the examination and treatment. However, the laws, rules, and
340 regulations relating to contagious or communicable diseases and
341 sanitary matters shall not be violated because of any exemption
342 from or variation of the health and immunization minimum
343 standards.

344 (10) TRANSPORTATION SAFETY.—Minimum standards shall include
345 requirements for child restraints or seat belts in vehicles used
346 by child care facilities and large family child care homes to
347 transport children, requirements for annual inspections of the
348 vehicles, limitations on the number of children in the vehicles,

40-01553-10

20102394__

349 and accountability for children being transported.

350 (11) ACCESS.—Minimum standards shall provide for reasonable
351 access to the child care facility by the custodial parent or
352 guardian during the time the child is in care.

353 (12) CHILD DISCIPLINE.—

354 (a) Minimum standards for child discipline practices shall
355 ensure that age-appropriate, constructive disciplinary practices
356 are used for children in care. Such standards shall include at
357 least the following requirements:

358 1. Children shall not be subjected to discipline which is
359 severe, humiliating, or frightening.

360 2. Discipline shall not be associated with food, rest, or
361 toileting.

362 3. Spanking or any other form of physical punishment is
363 prohibited.

364 (b) Prior to admission of a child to a child care facility,
365 the facility shall notify the parents in writing of the
366 disciplinary practices used by the facility.

367 (13) PLAN OF ACTIVITIES.—Minimum standards shall ensure
368 that each child care facility has and implements a written plan
369 for the daily provision of varied activities and active and
370 quiet play opportunities appropriate to the age of the child.
371 The written plan must include a program, to be implemented
372 periodically for children of an appropriate age, which will
373 assist the children in preventing and avoiding physical and
374 mental abuse.

375 (14) URBAN CHILD CARE FACILITIES.—Minimum standards shall
376 include requirements for child care facilities located in urban
377 areas. The standards must allow urban child care facilities to

40-01553-10

20102394

378 substitute indoor play space for outdoor play space, if outdoor
379 play space is not available in the area, and must set forth
380 additional requirements that apply to a facility which makes
381 that substitution, including, but not limited to, additional
382 square footage requirements for indoor space; air ventilation
383 provisions; and a requirement to provide facilities and
384 equipment conducive to physical activities appropriate for the
385 age of the children.

386 (15) TRANSITION PERIODS.—During the periods of time in
387 which children are arriving and departing from the child care
388 facility, notwithstanding local fire ordinances, the provisions
389 of subsection (6) are suspended for a period of time not to
390 exceed 30 minutes.

391 (16) EVENING AND WEEKEND CHILD CARE.—Minimum standards
392 shall be developed by the agency ~~department~~ to provide for
393 reasonable, affordable, and safe evening and weekend child care.
394 Each facility offering evening or weekend child care must meet
395 these minimum standards, regardless of the origin or source of
396 the fees used to operate the facility or the type of children
397 served by the facility. The agency ~~department~~ may modify by rule
398 the licensing standards contained in this section to accommodate
399 evening child care.

400 (17) SPECIALIZED CHILD CARE FACILITIES FOR THE CARE OF
401 MILDLY ILL CHILDREN.—Minimum standards shall be developed by the
402 agency ~~department~~, in conjunction with the Department of Health,
403 for specialized child care facilities for the care of mildly ill
404 children. The minimum standards shall address the following
405 areas: personnel requirements; staff-to-child ratios; staff
406 training and credentials; health and safety; physical facility

40-01553-10

20102394

407 requirements, including square footage; client eligibility,
408 including a definition of "mildly ill children"; sanitation and
409 safety; admission and recordkeeping; dispensing of medication;
410 and a schedule of activities.

411 (18) TRANSFER OF OWNERSHIP.—

412 (a) One week prior to the transfer of ownership of a child
413 care facility or family day care home, the transferor shall
414 notify the parent or caretaker of each child of the impending
415 transfer.

416 (b) The agency ~~department~~ shall, by rule, establish methods
417 by which notice will be achieved and minimum standards by which
418 to implement this subsection.

419 Section 5. Section 402.30501, Florida Statutes, is amended
420 to read:

421 402.30501 Modification of introductory child care course
422 for community college credit authorized.—The Agency for
423 Workforce Innovation ~~Department of Children and Family Services~~
424 may modify the 40-clock-hour introductory course in child care
425 under s. 402.305 or s. 402.3131 to meet the requirements of
426 articulating the course to community college credit. Any
427 modification must continue to provide that the course satisfies
428 the requirements of s. 402.305(2)(d).

429 Section 6. Section 402.3051, Florida Statutes, is amended
430 to read:

431 402.3051 Child care market rate reimbursement; child care
432 grants.—

433 (1) As used in this section, the term:

434 (a) "Child care program assessment tool" means an
435 assessment instrument designated or developed by the Agency for

40-01553-10

20102394

436 Workforce Innovation ~~department~~ to determine quality child care
437 and other child development services to children under the
438 provision of s. 402.3015, Title IV-A of the Social Security Act,
439 and the Child Care and Development Block Grant Act of 1990.

440 (b) "Market rate" means the price that a child care
441 provider charges for daily, weekly, or monthly child care
442 services. Market rate shall:

443 1. Be established for licensed child care facilities or
444 facilities that are not subject to s. 402.305, licensed or
445 registered family day care homes, licensed before-school and
446 after-school child care programs, and unregulated care provided
447 by a relative or other caretaker.

448 2. Differentiate among child care for children with special
449 needs or risk categories, infants, toddlers, and preschool and
450 school-age children.

451 3. Differentiate between full-time and part-time care.

452 4. Consider reductions in the cost of care for additional
453 children in the same family.

454 (c) "Prevailing market rate" means the annually determined
455 75th percentile of a reasonable frequency distribution of market
456 rate in a predetermined geographic market at which licensed
457 child care providers charge a person for child care services.

458 (2) The agency ~~department~~ shall establish procedures to
459 reimburse licensed, exempt, or registered child care providers
460 who hold a Gold Seal Quality Care designation at the market rate
461 for child care services for children who are eligible to receive
462 subsidized child care; and licensed, exempt, or registered child
463 care providers at the prevailing market rate for child care
464 services for children who are eligible to receive subsidized

40-01553-10

20102394

465 child care, unless prohibited by federal law under s. 402.3015.
466 The agency ~~department~~ shall establish procedures to reimburse
467 providers of unregulated child care at not more than 50 percent
468 of the market rate. The payment system may not interfere with
469 the parents' decision as to the appropriate child care
470 arrangement, regardless of the level of available funding for
471 child care. The child care program assessment tool may not be
472 used to determine reimbursement rates.

473 (3) The agency ~~department~~ may provide child care grants to
474 central agencies, community colleges, and career programs for
475 the purpose of providing support and technical assistance to
476 licensed child care providers.

477 (4) The agency ~~department~~ may use the state community child
478 care coordination agencies (central agencies), community
479 colleges, and career programs to implement this section.

480 (5) The agency ~~department~~ may adopt rules and other policy
481 provisions necessary to implement this section.

482 (6) This section shall be implemented only to the extent
483 that funding is available.

484 Section 7. Section 402.317, Florida Statutes, is amended to
485 read:

486 402.317 Prolonged child care.—Notwithstanding the time
487 restriction specified in s. 402.302(2) ~~s. 402.302(1)~~, child care
488 may be provided for 24 hours or longer for a child whose parent
489 or legal guardian works a shift of 24 hours or more. The
490 requirement that a parent or legal guardian work a shift of 24
491 hours or more must be certified in writing by the employer, and
492 the written certification shall be maintained in the facility by
493 the child care provider and made available to the licensing

40-01553-10

20102394

494 agency. The time that a child remains in child care, however,
495 may not exceed 72 consecutive hours in any 7-day period. During
496 a declared state of emergency, the child care licensing agency
497 may temporarily waive the time limitations provided in this
498 section.

499 Section 8. Paragraph (a) of subsection (4) of section
500 943.0585, Florida Statutes, is amended to read:

501 943.0585 Court-ordered expunction of criminal history
502 records.—The courts of this state have jurisdiction over their
503 own procedures, including the maintenance, expunction, and
504 correction of judicial records containing criminal history
505 information to the extent such procedures are not inconsistent
506 with the conditions, responsibilities, and duties established by
507 this section. Any court of competent jurisdiction may order a
508 criminal justice agency to expunge the criminal history record
509 of a minor or an adult who complies with the requirements of
510 this section. The court shall not order a criminal justice
511 agency to expunge a criminal history record until the person
512 seeking to expunge a criminal history record has applied for and
513 received a certificate of eligibility for expunction pursuant to
514 subsection (2). A criminal history record that relates to a
515 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
516 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.
517 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
518 893.135, s. 916.1075, a violation enumerated in s. 907.041, or
519 any violation specified as a predicate offense for registration
520 as a sexual predator pursuant to s. 775.21, without regard to
521 whether that offense alone is sufficient to require such
522 registration, or for registration as a sexual offender pursuant

40-01553-10

20102394

523 to s. 943.0435, may not be expunged, without regard to whether
524 adjudication was withheld, if the defendant was found guilty of
525 or pled guilty or nolo contendere to the offense, or if the
526 defendant, as a minor, was found to have committed, or pled
527 guilty or nolo contendere to committing, the offense as a
528 delinquent act. The court may only order expunction of a
529 criminal history record pertaining to one arrest or one incident
530 of alleged criminal activity, except as provided in this
531 section. The court may, at its sole discretion, order the
532 expunction of a criminal history record pertaining to more than
533 one arrest if the additional arrests directly relate to the
534 original arrest. If the court intends to order the expunction of
535 records pertaining to such additional arrests, such intent must
536 be specified in the order. A criminal justice agency may not
537 expunge any record pertaining to such additional arrests if the
538 order to expunge does not articulate the intention of the court
539 to expunge a record pertaining to more than one arrest. This
540 section does not prevent the court from ordering the expunction
541 of only a portion of a criminal history record pertaining to one
542 arrest or one incident of alleged criminal activity.
543 Notwithstanding any law to the contrary, a criminal justice
544 agency may comply with laws, court orders, and official requests
545 of other jurisdictions relating to expunction, correction, or
546 confidential handling of criminal history records or information
547 derived therefrom. This section does not confer any right to the
548 expunction of any criminal history record, and any request for
549 expunction of a criminal history record may be denied at the
550 sole discretion of the court.

551 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any

40-01553-10

20102394

552 criminal history record of a minor or an adult which is ordered
553 expunged by a court of competent jurisdiction pursuant to this
554 section must be physically destroyed or obliterated by any
555 criminal justice agency having custody of such record; except
556 that any criminal history record in the custody of the
557 department must be retained in all cases. A criminal history
558 record ordered expunged that is retained by the department is
559 confidential and exempt from the provisions of s. 119.07(1) and
560 s. 24(a), Art. I of the State Constitution and not available to
561 any person or entity except upon order of a court of competent
562 jurisdiction. A criminal justice agency may retain a notation
563 indicating compliance with an order to expunge.

564 (a) The person who is the subject of a criminal history
565 record that is expunged under this section or under other
566 provisions of law, including former s. 893.14, former s. 901.33,
567 and former s. 943.058, may lawfully deny or fail to acknowledge
568 the arrests covered by the expunged record, except when the
569 subject of the record:

- 570 1. Is a candidate for employment with a criminal justice
571 agency;
- 572 2. Is a defendant in a criminal prosecution;
- 573 3. Concurrently or subsequently petitions for relief under
574 this section or s. 943.059;
- 575 4. Is a candidate for admission to The Florida Bar;
- 576 5. Is seeking to be employed or licensed by or to contract
577 with the Department of Children and Family Services, the Agency
578 for Health Care Administration, the Agency for Persons with
579 Disabilities, or the Department of Juvenile Justice or to be
580 employed or used by such contractor or licensee in a sensitive

40-01553-10

20102394

581 position having direct contact with children, the
582 developmentally disabled, the aged, or the elderly as provided
583 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.
584 402.302(4) ~~s. 402.302(3)~~, s. 402.313(3), s. 409.175(2)(i), s.
585 415.102(4), chapter 916, s. 985.644, chapter 400, or chapter
586 429;

587 6. Is seeking to be employed or licensed by the Department
588 of Education, any district school board, any university
589 laboratory school, any charter school, any private or parochial
590 school, or any local governmental entity that licenses child
591 care facilities; or

592 7. Is seeking authorization from a seaport listed in s.
593 311.09 for employment within or access to one or more of such
594 seaports pursuant to s. 311.12.

595 Section 9. Paragraph (a) of subsection (4) of section
596 943.059, Florida Statutes, is amended to read:

597 943.059 Court-ordered sealing of criminal history records.—
598 The courts of this state shall continue to have jurisdiction
599 over their own procedures, including the maintenance, sealing,
600 and correction of judicial records containing criminal history
601 information to the extent such procedures are not inconsistent
602 with the conditions, responsibilities, and duties established by
603 this section. Any court of competent jurisdiction may order a
604 criminal justice agency to seal the criminal history record of a
605 minor or an adult who complies with the requirements of this
606 section. The court shall not order a criminal justice agency to
607 seal a criminal history record until the person seeking to seal
608 a criminal history record has applied for and received a
609 certificate of eligibility for sealing pursuant to subsection

40-01553-10

20102394

610 (2). A criminal history record that relates to a violation of s.
611 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.
612 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter
613 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.
614 916.1075, a violation enumerated in s. 907.041, or any violation
615 specified as a predicate offense for registration as a sexual
616 predator pursuant to s. 775.21, without regard to whether that
617 offense alone is sufficient to require such registration, or for
618 registration as a sexual offender pursuant to s. 943.0435, may
619 not be sealed, without regard to whether adjudication was
620 withheld, if the defendant was found guilty of or pled guilty or
621 nolo contendere to the offense, or if the defendant, as a minor,
622 was found to have committed or pled guilty or nolo contendere to
623 committing the offense as a delinquent act. The court may only
624 order sealing of a criminal history record pertaining to one
625 arrest or one incident of alleged criminal activity, except as
626 provided in this section. The court may, at its sole discretion,
627 order the sealing of a criminal history record pertaining to
628 more than one arrest if the additional arrests directly relate
629 to the original arrest. If the court intends to order the
630 sealing of records pertaining to such additional arrests, such
631 intent must be specified in the order. A criminal justice agency
632 may not seal any record pertaining to such additional arrests if
633 the order to seal does not articulate the intention of the court
634 to seal records pertaining to more than one arrest. This section
635 does not prevent the court from ordering the sealing of only a
636 portion of a criminal history record pertaining to one arrest or
637 one incident of alleged criminal activity. Notwithstanding any
638 law to the contrary, a criminal justice agency may comply with

40-01553-10

20102394

639 laws, court orders, and official requests of other jurisdictions
640 relating to sealing, correction, or confidential handling of
641 criminal history records or information derived therefrom. This
642 section does not confer any right to the sealing of any criminal
643 history record, and any request for sealing a criminal history
644 record may be denied at the sole discretion of the court.

645 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal
646 history record of a minor or an adult which is ordered sealed by
647 a court of competent jurisdiction pursuant to this section is
648 confidential and exempt from the provisions of s. 119.07(1) and
649 s. 24(a), Art. I of the State Constitution and is available only
650 to the person who is the subject of the record, to the subject's
651 attorney, to criminal justice agencies for their respective
652 criminal justice purposes, which include conducting a criminal
653 history background check for approval of firearms purchases or
654 transfers as authorized by state or federal law, to judges in
655 the state courts system for the purpose of assisting them in
656 their case-related decisionmaking responsibilities, as set forth
657 in s. 943.053(5), or to those entities set forth in
658 subparagraphs (a)1., 4., 5., 6., and 8. for their respective
659 licensing, access authorization, and employment purposes.

660 (a) The subject of a criminal history record sealed under
661 this section or under other provisions of law, including former
662 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
663 deny or fail to acknowledge the arrests covered by the sealed
664 record, except when the subject of the record:

- 665 1. Is a candidate for employment with a criminal justice
666 agency;
667 2. Is a defendant in a criminal prosecution;

40-01553-10

20102394

668 3. Concurrently or subsequently petitions for relief under
669 this section or s. 943.0585;

670 4. Is a candidate for admission to The Florida Bar;

671 5. Is seeking to be employed or licensed by or to contract
672 with the Department of Children and Family Services, the Agency
673 for Health Care Administration, the Agency for Persons with
674 Disabilities, or the Department of Juvenile Justice or to be
675 employed or used by such contractor or licensee in a sensitive
676 position having direct contact with children, the
677 developmentally disabled, the aged, or the elderly as provided
678 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.
679 402.302(4) ~~s. 402.302(3)~~, s. 402.313(3), s. 409.175(2)(i), s.
680 415.102(4), s. 415.103, chapter 916, s. 985.644, chapter 400, or
681 chapter 429;

682 6. Is seeking to be employed or licensed by the Department
683 of Education, any district school board, any university
684 laboratory school, any charter school, any private or parochial
685 school, or any local governmental entity that licenses child
686 care facilities;

687 7. Is attempting to purchase a firearm from a licensed
688 importer, licensed manufacturer, or licensed dealer and is
689 subject to a criminal history check under state or federal law;
690 or

691 8. Is seeking authorization from a Florida seaport
692 identified in s. 311.09 for employment within or access to one
693 or more of such seaports pursuant to s. 311.12.

694 Section 10. Section 1002.67, Florida Statutes, is amended
695 to read:

696 1002.67 Performance standards; curricula and

40-01553-10

20102394

697 accountability.—

698 (1) ~~By April 1, 2005,~~ The Agency for Workforce Innovation
699 ~~department~~ shall maintain ~~develop and adopt~~ performance
700 standards for students in the Voluntary Prekindergarten
701 Education Program. The performance standards must address the
702 age-appropriate progress of students in the development of:

703 (a) The capabilities, capacities, and skills required under
704 s. 1(b), Art. IX of the State Constitution; and

705 (b) Emergent literacy skills, including oral communication,
706 knowledge of print and letters, phonemic and phonological
707 awareness, and vocabulary and comprehension development.

708 (2) (a) Each private prekindergarten provider and public
709 school may select or design the curriculum that the provider or
710 school uses to implement the Voluntary Prekindergarten Education
711 Program, except as otherwise required for a provider or school
712 that is placed on probation under paragraph (3) (c).

713 (b) Each private prekindergarten provider's and public
714 school's curriculum must be developmentally appropriate and
715 must:

716 1. Be designed to prepare a student for early literacy;

717 2. Enhance the age-appropriate progress of students in
718 attaining the performance standards adopted by the agency
719 ~~department~~ under subsection (1); and

720 3. Prepare students to be ready for kindergarten based upon
721 the statewide kindergarten screening administered under s.
722 1002.69.

723 (c) The agency ~~department~~ shall review and approve
724 curricula for use by private prekindergarten providers and
725 public schools that are placed on probation under paragraph

40-01553-10

20102394

726 (3) (c). The agency ~~department~~ shall maintain a list of the
727 curricula approved under this paragraph. Each approved
728 curriculum must meet the requirements of paragraph (b).

729 (3) (a) Each early learning coalition shall verify that each
730 private prekindergarten provider delivering the Voluntary
731 Prekindergarten Education Program within the coalition's county
732 or multicounty region complies with this part. Each district
733 school board shall verify that each public school delivering the
734 program within the school district complies with this part.

735 (b) If a private prekindergarten provider or public school
736 fails or refuses to comply with this part, or if a provider or
737 school engages in misconduct, the Agency for Workforce
738 Innovation shall require the early learning coalition to remove
739 the provider, and ~~the Department of Education~~ shall require the
740 school district to remove the school, from eligibility to
741 deliver the Voluntary Prekindergarten Education Program and
742 receive state funds under this part.

743 (c)1. If the kindergarten readiness rate of a private
744 prekindergarten provider or public school falls below the
745 minimum rate adopted by the agency ~~State Board of Education~~ as
746 satisfactory under s. 1002.69(6), the early learning coalition
747 or school district, as applicable, shall require the provider or
748 school to submit an improvement plan for approval by the
749 coalition or school district, as applicable, and to implement
750 the plan.

751 2. If a private prekindergarten provider or public school
752 fails to meet the minimum rate adopted by the agency ~~State Board~~
753 ~~of Education~~ as satisfactory under s. 1002.69(6) for 2
754 consecutive years, the early learning coalition or school

40-01553-10

20102394

755 district, as applicable, shall place the provider or school on
756 probation and must require the provider or school to take
757 certain corrective actions, including the use of a curriculum
758 approved by the agency ~~department~~ under paragraph (2)(c).

759 3. A private prekindergarten provider or public school that
760 is placed on probation must continue the corrective actions
761 required under subparagraph 2., including the use of a
762 curriculum approved by the department, until the provider or
763 school meets the minimum rate adopted by the agency ~~State Board~~
764 ~~of Education~~ as satisfactory under s. 1002.69(6).

765 4. If a private prekindergarten provider or public school
766 remains on probation for 2 consecutive years and fails to meet
767 the minimum rate adopted by the agency ~~State Board of Education~~
768 as satisfactory under s. 1002.69(6), the Agency for Workforce
769 Innovation shall require the early learning coalition or the
770 ~~Department of Education~~ shall require the school district, as
771 applicable, to remove the provider or school from eligibility to
772 deliver the Voluntary Prekindergarten Education Program and
773 receive state funds for the program.

774 ~~(d) Each early learning coalition, the Agency for Workforce~~
775 ~~Innovation, and the department shall coordinate with the Child~~
776 ~~Care Services Program Office of the Department of Children and~~
777 ~~Family Services to minimize interagency duplication of~~
778 ~~activities for monitoring private prekindergarten providers for~~
779 ~~compliance with requirements of the Voluntary Prekindergarten~~
780 ~~Education Program under this part, the school readiness programs~~
781 ~~under s. 411.01, and the licensing of providers under ss.~~
782 ~~402.301-402.319.~~

783 Section 11. Subsections (1), (5), and (6) of section

40-01553-10

20102394

784 1002.69, Florida Statutes, are amended to read:

785 1002.69 Statewide kindergarten screening; kindergarten
786 readiness rates.—

787 (1) The Agency for Workforce Innovation ~~department~~ shall
788 adopt a statewide kindergarten screening that assesses the
789 readiness of each student for kindergarten based upon the
790 performance standards adopted by the agency ~~department~~ under s.
791 1002.67(1) for the Voluntary Prekindergarten Education Program.
792 The agency ~~department~~ shall require that each school district
793 administer the statewide kindergarten screening to each
794 kindergarten student in the school district within the first 30
795 school days of each school year.

796 (5) The agency ~~State Board of Education~~ shall adopt
797 procedures for the annual calculation of ~~department to annually~~
798 ~~calculate~~ each private prekindergarten provider's and public
799 school's kindergarten readiness rate, which must be expressed as
800 the percentage of the provider's or school's students who are
801 assessed as ready for kindergarten. The kindergarten readiness
802 rates must be based exclusively upon the results of the
803 statewide kindergarten screening for students completing the
804 Voluntary Prekindergarten Education Program, beginning with
805 students completing the program during the 2005-2006 school year
806 who are administered the statewide kindergarten screening during
807 the 2006-2007 school year. The rates must not include students
808 who are not administered the statewide kindergarten screening.

809 (6) ~~(a)~~ The agency ~~State Board of Education~~ shall
810 periodically adopt a minimum kindergarten readiness rate that,
811 if achieved by a private prekindergarten provider or public
812 school, would demonstrate the provider's or school's

40-01553-10

20102394__

813 satisfactory delivery of the Voluntary Prekindergarten Education
814 Program.

815 ~~(b) The minimum rate must not exceed the rate at which more~~
816 ~~than 15 percent of the kindergarten readiness rates of all~~
817 ~~private prekindergarten providers and public schools delivering~~
818 ~~the Voluntary Prekindergarten Education Program in the state~~
819 ~~would fall below the minimum rate.~~

820 Section 12. Section 1002.73, Florida Statutes, is amended
821 to read:

822 1002.73 Agency for Workforce Innovation ~~Department of~~
823 ~~Education~~; powers and duties; accountability requirements.-

824 (1) The Agency for Workforce Innovation ~~department~~ shall
825 administer the accountability requirements of the Voluntary
826 Prekindergarten Education Program at the state level.

827 (2) The agency ~~department~~ shall adopt procedures for the
828 agency's ~~department's~~:

829 (a) Approval of prekindergarten director credentials under
830 ss. 1002.55 and 1002.57.

831 (b) Approval of emergent literacy training courses under
832 ss. 1002.55 and 1002.59.

833 (c) Certification of school districts that are eligible to
834 deliver the school-year prekindergarten program under s.
835 1002.63.

836 (3)(e) The agency shall adopt procedures for administration
837 of the statewide kindergarten screening and calculation of
838 kindergarten readiness rates under s. 1002.69.

839 (4)(3) Except as provided by law, the agency ~~department~~ may
840 not impose requirements on a private prekindergarten provider
841 that does not deliver the Voluntary Prekindergarten Education

40-01553-10

20102394

842 Program or receive state funds under this part.

843 Section 13. Section 1002.79, Florida Statutes, is amended
844 to read:

845 1002.79 Rulemaking authority.—

846 ~~(1) The State Board of Education shall adopt rules under~~
847 ~~ss. 120.536(1) and 120.54 to administer the provisions of this~~
848 ~~part conferring duties upon the department.~~

849 ~~(2)~~ The Agency for Workforce Innovation shall adopt rules
850 under ss. 120.536(1) and 120.54 to administer the provisions of
851 this part conferring duties upon the agency.

852 Section 14. Notwithstanding the transfer of regulatory
853 authority over child care facility licensing in chapter 402,
854 Florida Statutes, provided by this act, persons and entities
855 holding in good standing any child care facility license or
856 registration under chapter 402, Florida Statutes, as of 11:59
857 p.m. on the day prior to the effective date of this act, shall
858 be deemed to hold in good standing a license or registration in
859 the same capacity under chapter 402, Florida Statutes, and under
860 the authority of the Agency for Workforce Innovation as of the
861 effective date of this act.

862 Section 15. The Legislature recognizes that there is a need
863 to conform the Florida Statutes to the policy decisions
864 reflected in the provisions of this act. The Division of
865 Statutory Revision of the Office of Legislative Services is
866 directed to provide the relevant substantive committees and
867 councils of the Senate and the House of Representatives with
868 assistance, upon request, to enable such committees or councils
869 to prepare draft legislation to conform the Florida Statutes to
870 the provisions of this act.

40-01553-10

20102394__

871

Section 16. This act shall take effect July 1, 2010.