

By: Representatives Moody, Coleman (65th)

To: Public Health and
Welfare

HOUSE BILL NO. 1028

1 AN ACT TO AMEND SECTION 43-20-5, MISSISSIPPI CODE OF 1972, TO
2 CLARIFY CERTAIN EXEMPTIONS AND PROVIDE CERTAIN DEFINITIONS UNDER
3 THE CHILD CARE FACILITY LICENSURE LAW; AND FOR RELATED PURPOSES.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

5 SECTION 1. Section 43-20-5, Mississippi Code of 1972, is
6 amended as follows:

7 43-20-5. When used in this chapter, the following words
8 shall have the following meanings:

9 (a) "Child care facility" means a place which provides
10 shelter and personal care for six (6) or more children who are not
11 related within the third degree computed according to the civil
12 law to the operator and who are under thirteen (13) years of age,
13 for any part of the twenty-four-hour day, whether such place be
14 organized or operated for profit or not. The term "child care
15 facility" includes day nurseries, day care centers and any other
16 facility that falls within the scope of the definitions set forth
17 above, regardless of auspices. Exemptions from the provisions of
18 this chapter include:

19 (i) Child care facilities which operate for no
20 more than two (2) days a week, whose primary purpose is to provide
21 respite for the caregiver or temporary care during other scheduled
22 or related activities and organized programs which operate for
23 three (3) or less weeks per year such as, but not limited to,
24 vacation bible schools and scout day camps * * *.

25 (ii) Any child residential home as defined in, and
26 in compliance with the provisions of, Section 43-16-3(b) et seq.

27 (iii) 1. Any elementary, including kindergarten,
28 and/or secondary school system, accredited by the Mississippi
29 State Department of Education, the Southern Association of
30 Colleges and Schools, the Mississippi Private School Education
31 Association, the American Association of Christian Schools, the
32 Association of Christian Schools International, and any Headstart
33 program operating in conjunction with an elementary school system,
34 whether it be public, private or parochial, whose primary purpose
35 is a structured school or school readiness program.

36 2. Accreditation, for the purpose of
37 exemption from the provisions of this chapter, means a. receipt by
38 any school or school system of full accreditation from an
39 accrediting entity listed in item 1 of this subparagraph (iii), or
40 b. proof of application by the school or school system for
41 accreditation status from the accrediting entity. Proof of
42 application for accreditation status shall include, but not be
43 limited to, a copy of the applicant's completed application for
44 accreditation filed with the licensing agency and a letter or
45 other authenticating documentation from a signatory authority with
46 the accrediting entity that the application for accreditation has
47 been received and that the applicant is currently under
48 consideration or review for full accreditation status by the
49 accrediting entity. An exemption for a nonaccredited applicant
50 under this item 2 shall be for a maximum of one (1) year from the
51 receipt date by the licensing agency of the completed
52 documentation for proof of application for accreditation status.
53 Failure to receive full accreditation by the end of the one-year
54 exemption period for a nonaccredited applicant shall result in the
55 nonaccredited applicant no longer remaining exempt from the
56 provisions of this chapter at the end of the one-year period.
57 However, if full accreditation is not received by the end of the
58 one-year exemption period, the State Board of Health, in its
59 discretion, may extend the exemption period for any nonaccredited

60 applicant for periods of six (6) months, with the total extension
61 not to exceed one (1) year. During any such extension periods,
62 the board shall have the authority to enforce child care facility
63 licensure provisions relating to the health and safety of the
64 children in the school or school system. If a nonaccredited
65 applicant fails to receive full accreditation by the end of all
66 extended exemption periods, the applicant shall no longer remain
67 exempt from the provisions of this chapter at the end of the
68 extended exemption periods. This item 2 shall stand repealed on
69 July 1, 2003.

70 (iv) Any membership organization affiliated with a
71 national organization which charges only a nominal annual
72 membership fee, does not receive monthly, weekly or daily payments
73 for services, and is certified by its national association as
74 being in compliance with the association's minimum standards and
75 procedures, including, but not limited to, the Boys and Girls Club
76 of America, and the YMCA.

77 (v) Any family child care home as defined in
78 Section 43-20-53(a) et seq.

79 All other preschool child care programs and/or extended day
80 school programs must meet requirements set forth in this chapter.

81 (b) "Health" means that condition of being sound in
82 mind and body and encompasses an individual's physical, mental and
83 emotional welfare.

84 (c) "Safety" means that condition of being protected
85 from hurt, injury or loss.

86 (d) "Person" means any person, firm, partnership,
87 corporation or association.

88 (e) "Operator" means any person, acting individually or
89 jointly with another person or persons, who shall establish, own,
90 operate, conduct or maintain a child care facility. The child
91 care facility license shall be issued in the name of the operator,
92 or, if there is more than one (1) operator, in the name of one (1)

93 of the operators. If there is more than one (1) operator, all
94 statutory and regulatory provisions concerning the background
95 checks of operators shall be equally applied to all operators of a
96 facility, including, but not limited to, a spouse who jointly
97 owns, operates or maintains the child care facility regardless of
98 which particular person is named on the license.

99 (f) "Personal care" means assistance rendered by
100 personnel of the child care facility in performing one or more of
101 the activities of daily living, which includes, but is not limited
102 to, the feeding, personal grooming, supervising and dressing of
103 children placed in the child care facility.

104 (g) "Licensing agency" means the Mississippi State
105 Department of Health.

106 (h) "Caregiver" means any person who provides direct
107 care, supervision or guidance to children in a child care
108 facility, regardless of title or occupation.

109 SECTION 2. This act shall take effect and be in force from
110 and after July 1, 2001.