

By: Senator(s) Huggins (By Request)

To: Public Health and Welfare

SENATE BILL NO. 3037

1 AN ACT TO AMEND SECTION 43-20-8, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT THE STATE DEPARTMENT OF HEALTH SHALL NOT BE  
3 AUTHORIZED TO ISSUE MINIMUM FLOOR AND CAPACITY REQUIREMENTS FOR  
4 LICENSED CHILD CARE FACILITIES BELOW A CERTAIN THRESHOLD; AND FOR  
5 RELATED PURPOSES.

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

7 **SECTION 1.** Section 43-20-8, Mississippi Code of 1972, is  
8 amended as follows:

9 43-20-8. (1) The licensing agency shall have powers and  
10 duties as set forth below in addition to other duties prescribed  
11 under this chapter:

12 (a) Promulgate rules and regulations concerning the  
13 licensing and regulation of child care facilities as defined  
14 herein; provided, however, that the licensing agency shall  
15 specifically not be authorized to establish minimum usable space  
16 standards which are inconsistent to the following:

17 (i) A minimum of thirty-five (35) square feet of  
18 indoor floor space shall be provided for each child including  
19 infants and toddlers. Usable space shall not include hallways,  
20 bathrooms and kitchens.

21 (ii) When school-age children are present, there  
22 shall be a minimum of twenty-five (25) square feet available for  
23 each school-age child.

24 (iii) In the construction and design of  
25 playgrounds, providers may refer to the U.S. Consumer Product  
26 Safety Commission guidelines to ensure outdoor play areas are free  
27 from hazards that could injure children.



28 Any licensee whose licensed usable space capacity was changed by  
29 the licensing agency after 1997 shall have its licensed capacity  
30 reviewed and reinstated using these standards. The Child Care  
31 Advisory Council created in Section 43-20-7, Mississippi Code of  
32 1972, shall review and approve the standards and procedures used  
33 by the licensing agency in reinstating licenses under the  
34 requirements of this paragraph.

35 (b) Have the authority to issue, deny, suspend, revoke,  
36 restrict or otherwise take disciplinary action against licensees  
37 as provided for in this chapter;

38 (c) Set and collect fees and penalties as provided for  
39 in this chapter; and

40 (d) Have such other powers as may be required to carry  
41 out the provisions of this chapter.

42 (2) Child care facilities shall assure that parents have  
43 welcome access to the child care facility at all times.

44 (3) Child care facilities shall require that, for any  
45 current or prospective caregiver, current criminal records  
46 background checks and current child abuse registry checks are  
47 obtained. In order to determine the applicant's suitability for  
48 employment, the applicant shall be fingerprinted. If no  
49 disqualifying record is identified at the state level, the  
50 fingerprints shall be forwarded by the Department of Public Safety  
51 to the FBI for a national criminal history record check.

52 (4) The licensing agency shall require to be performed a  
53 criminal records background check and a child abuse registry check  
54 for any and all operators of a child care facility and any person  
55 living in a residence used for child care. In order to determine  
56 the applicant's suitability for employment, the applicant shall be  
57 fingerprinted. If no disqualifying record is identified at the  
58 state level, the fingerprints shall be forwarded by the Department  
59 of Public Safety to the FBI for a national criminal history record  
60 check.



61 (5) The licensing agency shall have the authority to exclude  
62 a particular crime or crimes or a substantiated finding of child  
63 abuse and/or neglect as disqualifying individuals or entities for  
64 prospective or current employment or licensure.

65 (6) The licensing agency and its agents, officers,  
66 employees, attorneys and representatives shall not be held civilly  
67 liable for any findings, recommendations or actions taken pursuant  
68 to this section.

69 (7) All fees incurred in compliance with this section shall  
70 be borne by the child care facility. The licensing agency is  
71 hereby authorized to charge a fee which shall include the amount  
72 required by the Federal Bureau of Investigation for the national  
73 criminal history record check in compliance with the Child  
74 Protection Act of 1993, as amended and any necessary costs  
75 incurred by the licensing agency for the handling and  
76 administration of the criminal history background checks.

77 **SECTION 2.** This act shall take effect and be in force from  
78 and after July 1, 2002.

