

By: Representative Watson

To: Public Health and Human
ServicesCOMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 402

1 AN ACT TO AMEND SECTION 43-20-5, MISSISSIPPI CODE OF 1972,
2 WHICH PROVIDES THE DEFINITIONS FOR THE MISSISSIPPI CHILD CARE
3 LICENSING LAW, TO EXTEND THE REPEAL DATE ON THE EXEMPTION OF
4 CERTAIN ACCREDITED SCHOOLS FROM THE LICENSING LAW; TO AMEND
5 SECTION 43-20-8, MISSISSIPPI CODE OF 1972, TO REQUIRE EACH
6 CHILD-CARE FACILITY TO MAINTAIN A LIST OF CONTACT PERSONS FOR EACH
7 CHILD PROVIDED CARE BY THE FACILITY, AND TO CALL THE CHILD'S
8 CONTACT PERSON IF THE CHILD HAS NOT ARRIVED AT THE FACILITY WITHIN
9 TWO HOURS AFTER THE NORMAL TIME FOR ARRIVAL; AND FOR RELATED
10 PURPOSES.

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

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

14 43-20-5. When used in this chapter, the following words
15 shall have the following meanings:

16 (a) "Child-care facility" means a place that provides
17 shelter and personal care for six (6) or more children who are not
18 related within the third degree computed according to the civil
19 law to the operator and who are under thirteen (13) years of age,
20 for any part of the twenty-four-hour day, whether that place is
21 organized or operated for profit or not. The term "child-care
22 facility" includes day nurseries, day care centers and any other
23 facility that falls within the scope of the definitions set forth
24 in this paragraph, regardless of auspices. Exemptions from the
25 provisions of this chapter include:

26 (i) Child-care facilities that operate for no more
27 than two (2) days a week, whose primary purpose is to provide
28 respite for the caregiver or temporary care during other scheduled
29 or related activities and organized programs that operate for
30 three (3) or fewer weeks per year such as, but not limited to,
31 vacation bible schools and scout day camps.

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

34 (iii) 1. Any elementary, including kindergarten,
35 and/or secondary school system, accredited by the Mississippi
36 State Department of Education, the Southern Association of
37 Colleges and Schools, the Mississippi Private School Education
38 Association, the American Association of Christian Schools, the
39 Association of Christian Schools International, and any Head Start
40 program operating in conjunction with an elementary school system,
41 whether it is public, private or parochial, whose primary purpose
42 is a structured school or school readiness program.

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

65 one-year exemption period, the State Board of Health, in its
66 discretion, may extend the exemption period for any nonaccredited
67 applicant for periods of six (6) months, with the total extension
68 not to exceed one (1) year. During any such extension periods,
69 the board shall have the authority to enforce child-care facility
70 licensure provisions relating to the health and safety of the
71 children in the school or school system. If a nonaccredited
72 applicant fails to receive full accreditation by the end of all
73 extended exemption periods, the applicant shall no longer remain
74 exempt from the provisions of this chapter at the end of the
75 extended exemption periods. This item 2 shall stand repealed on
76 July 1, 2006.

77 (iv) Any membership organization affiliated with a
78 national organization that charges only a nominal annual
79 membership fee, does not receive monthly, weekly or daily payments
80 for services, and is certified by its national association as
81 being in compliance with the association's minimum standards and
82 procedures, including, but not limited to, the Boys and Girls Club
83 of America, and the YMCA.

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

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

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

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

93 (d) "Person" means any person, firm, partnership,
94 corporation or association.

95 (e) "Operator" means any person, acting individually or
96 jointly with another person or persons, who * * * establishes,
97 owns, operates, conducts or maintains a child-care facility. The

98 child-care facility license shall be issued in the name of the
99 operator, or, if there is more than one (1) operator, in the name
100 of one (1) of the operators. If there is more than one (1)
101 operator, all statutory and regulatory provisions concerning the
102 background checks of operators shall be equally applied to all
103 operators of a facility, including, but not limited to, a spouse
104 who jointly owns, operates or maintains the child-care facility
105 regardless of which particular person is named on the license.

106 (f) "Personal care" means assistance rendered by
107 personnel of the child-care facility in performing one or more of
108 the activities of daily living, which includes, but is not limited
109 to, the feeding, personal grooming, supervising and dressing of
110 children placed in the child-care facility.

111 (g) "Licensing agency" means the Mississippi State
112 Department of Health.

113 (h) "Caregiver" means any person who provides direct
114 care, supervision or guidance to children in a child-care
115 facility, regardless of title or occupation.

116 **SECTION 2.** Section 43-20-8, Mississippi Code of 1972, is
117 amended as follows:

118 43-20-8. (1) The licensing agency shall have powers and
119 duties as set forth below, in addition to other duties prescribed
120 under this chapter:

121 (a) Promulgate rules and regulations concerning the
122 licensing and regulation of child-care facilities as defined in
123 Section 43-20-5;

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

127 (c) Set and collect fees and penalties as provided for
128 in this chapter; and

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

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

133 (3) Each child-care facility shall develop and maintain a
134 current list of contact persons for each child provided care by
135 the facility. If a child has not arrived at the facility within
136 two (2) hours after the normal time for arrival, the facility
137 shall call or otherwise contact the child's contact person on the
138 list to determine the status of the child.

139 (4) Child-care facilities shall require that, for any
140 current or prospective caregiver, current criminal records
141 background checks and current child abuse registry checks are
142 obtained. In order to determine the applicant's suitability for
143 employment, the applicant shall be fingerprinted. If no
144 disqualifying record is identified at the state level, the
145 fingerprints shall be forwarded by the Department of Public Safety
146 to the FBI for a national criminal history record check.

147 (5) The licensing agency shall require to be performed a
148 criminal records background check and a child abuse registry check
149 for all operators of a child-care facility and any person living
150 in a residence used for child care. The Department of Human
151 Services shall have the authority to disclose to the State
152 Department of Health any potential applicant whose name is listed
153 on the Child Abuse Central Registry or has a pending
154 administrative review. That information shall remain confidential
155 by all parties. In order to determine the applicant's suitability
156 for employment, the applicant shall be fingerprinted. If no
157 disqualifying record is identified at the state level, the
158 fingerprints shall be forwarded by the Department of Public Safety
159 to the FBI for a national criminal history record check.

160 (6) The licensing agency shall have the authority to exclude
161 a particular crime or crimes or a substantiated finding of child
162 abuse and/or neglect as disqualifying individuals or entities for
163 prospective or current employment or licensure.

164 (7) The licensing agency and its agents, officers,
165 employees, attorneys and representatives shall not be held civilly
166 liable for any findings, recommendations or actions taken under
167 this section.

168 (8) All fees incurred in compliance with this section shall
169 be borne by the child-care facility. The licensing agency is
170 authorized to charge a fee that * * * includes the amount required
171 by the Federal Bureau of Investigation for the national criminal
172 history record check in compliance with the Child Protection Act
173 of 1993, as amended, and any necessary costs incurred by the
174 licensing agency for the handling and administration of the
175 criminal history background checks.

176 **SECTION 3.** This act shall take effect and be in force from
177 and after July 1, 2004.