

By: Representative Warren

To: Public Health and Human Services

HOUSE BILL NO. 535
(As Passed the House)

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 DELETE THE REPEALER ON THE PROVISION EXEMPTING
4 CERTAIN ACCREDITED SCHOOLS FROM THE LICENSING LAW; AND FOR RELATED
5 PURPOSES.

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

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

9 43-20-5. When used in this chapter, the following words
10 shall have the following meanings:

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

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

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

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

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

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

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

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

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

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

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

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

89 (e) "Operator" means any person, acting individually or
90 jointly with another person or persons, who establishes, owns,
91 operates, conducts or maintains a child-care facility. The
92 child-care facility license shall be issued in the name of the
93 operator, or, if there is more than one (1) operator, in the name
94 of one (1) of the operators. If there is more than one (1)

95 operator, all statutory and regulatory provisions concerning the
96 background checks of operators shall be equally applied to all
97 operators of a facility including, but not limited to, a spouse
98 who jointly owns, operates or maintains the child-care facility
99 regardless of which particular person is named on the license.

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

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

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

110 **SECTION 2.** This act shall take effect and be in force from
111 and after July 1, 2006.