

By: Representative Porter

To: Insurance; Judiciary A

HOUSE BILL NO. 128

1 AN ACT TO AMEND SECTION 43-20-8, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE LICENSED CHILD CARE FACILITIES TO PURCHASE AND MAINTAIN A
3 MINIMUM OF ONE MILLION DOLLARS OF LIABILITY INSURANCE FOR EACH
4 CHILD CARE FACILITY; AND FOR RELATED PURPOSES.

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

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

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

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

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

17 (c) Set and collect fees and penalties as provided for
18 in this chapter; any increase in the fees charged by the licensing



19 agency under this paragraph shall be in accordance with the
20 provisions of Section 41-3-65; and

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

23 (2) Child care facilities shall assure that parents have
24 welcome access to the child care facility at all times and shall
25 comply with the provisions of Chapter 520, Laws of 2006.

26 (3) Each child care facility shall develop and maintain a
27 current list of contact persons for each child provided care by
28 that facility. An agreement may be made between the child care
29 facility and the child's parent, guardian or contact person at the
30 time of registration to inform the parent, guardian or contact
31 person if the child does not arrive at the facility within a
32 reasonable time.

33 (4) Child care facilities shall require that, for any
34 current or prospective caregiver, all criminal records, background
35 and sex offender registry checks and current child abuse registry
36 checks are obtained. In order to determine the applicant's
37 suitability for employment, the applicant shall be fingerprinted.
38 If no disqualifying record is identified at the state level, the
39 fingerprints shall be forwarded by the Department of Public Safety
40 to the FBI for a national criminal history record check.

41 (5) The licensing agency shall require to be performed a
42 criminal records background check and a child abuse registry check
43 for all operators of a child care facility and any person living



44 in a residence used for child care. The Department of Human
45 Services shall have the authority to disclose to the State
46 Department of Health any potential applicant whose name is listed
47 on the Child Abuse Central Registry or has a pending
48 administrative review. That information shall remain confidential
49 by all parties. In order to determine the applicant's suitability
50 for employment, the applicant shall be fingerprinted. If no
51 disqualifying record is identified at the state level, the
52 fingerprints shall be forwarded by the Department of Public Safety
53 to the FBI for a national criminal history record check.

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

58 (7) The licensing agency and its agents, officers,
59 employees, attorneys and representatives shall not be held civilly
60 liable for any findings, recommendations or actions taken under
61 this section.

62 (8) All fees incurred in compliance with this section shall
63 be borne by the child care facility. The licensing agency is
64 authorized to charge a fee that includes the amount required by
65 the Federal Bureau of Investigation for the national criminal
66 history record check in compliance with the Child Protection Act
67 of 1993, as amended, and any necessary costs incurred by the



68 licensing agency for the handling and administration of the
69 criminal history background checks.

70 (9) From and after January 1, 2008, the State Board of
71 Health shall develop regulations to ensure that all children
72 enrolled or enrolling in a state licensed child care center
73 receive age-appropriate immunization against invasive pneumococcal
74 disease as recommended by the Advisory Committee on immunization
75 practices of the Centers for Disease Control and Prevention. The
76 State Board of Health shall include, within its regulations,
77 protocols for children under the age of twenty-four (24) months to
78 catch up on missed doses. If the State Board of Health has
79 adopted regulations before January 1, 2008, that would otherwise
80 meet the requirements of this subsection, then this subsection
81 shall stand repealed on January 1, 2008.

82 (10) The licensing agency shall require proof that each
83 child care facility has purchased and maintains not less than One
84 Million Dollars (\$1,000,000.00) in liability insurance for each
85 child care facility. The liability coverage amount described in
86 this subsection shall include coverage for indemnity of the
87 insured only. The cost of defending the insured shall not be
88 covered. The licensing agency shall suspend or revoke the license
89 or certificate of any child care facility whose owner or operator
90 violates the provisions of this subsection.

91 **SECTION 2.** This act shall take effect and be in force from
92 and after July 1, 2022.

