

By: Representative Porter

To: Judiciary A

HOUSE BILL NO. 64

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; TO AMEND SECTION 43-20-14, MISSISSIPPI CODE
5 OF 1972, TO CONFORM TO THE PRECEDING SECTION; AND FOR RELATED
6 PURPOSES.

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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

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



70 licensing agency for the handling and administration of the
71 criminal history background checks.

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

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

93 **SECTION 2.** Section 43-20-14, Mississippi Code of 1972, is
94 amended as follows:



95 43-20-14. (1) The licensing agency may deny a license or
96 refuse to renew a license for any of the reasons set forth in
97 subsection (3) of this section.

98 (2) Before the licensing agency may deny or refuse to renew,
99 the applicant or person named on the license shall be entitled to
100 a hearing in order to show cause why the license should not be
101 denied or should be renewed.

102 (3) The licensing agency may suspend, revoke or restrict the
103 license of any child care facility upon one or more of the
104 following grounds:

105 (a) Fraud, misrepresentation or concealment of material
106 facts;

107 (b) Conviction of an operator for any crime if the
108 licensing agency finds that the act or acts for which the operator
109 was convicted could have a detrimental effect on children cared
110 for by any child care facility;

111 (c) Violation of any of the provisions of this act or
112 of the regulations governing the licensing and regulation of child
113 care facilities promulgated by the licensing agency;

114 (d) Any conduct, or failure to act, that is found or
115 determined by the licensing agency to threaten the health or
116 safety of children at the facility;

117 (e) Failure by the child care facility to comply with
118 the provisions of Section 43-20-8(3) regarding background checks
119 of caregivers; * * *



120 (f) Information received by the licensing agency as a
121 result of the criminal records background check and the child
122 abuse registry check on all operators under Section 43-20-8 * * *;
123 and

124 (g) Failure by the child care facility to purchase or
125 maintain liability insurance as provided in Section 43-20-8(10).

126 (4) Before the licensing agency may suspend, revoke or
127 restrict the license of any facility, any licensee affected by
128 that decision of the licensing agency shall be entitled to a
129 hearing in which the licensee may show cause why the license
130 should not be suspended, revoked or restricted.

131 (5) Any licensee who disagrees with or is aggrieved by a
132 decision of the Mississippi State Department of Health in regard
133 to the denial, refusal to renew, suspension, revocation or
134 restriction of the license of the licensee, may appeal to the
135 chancery court of the county in which the facility is located.
136 The appeal shall be filed no later than thirty (30) days after the
137 licensee receives written notice of the final administrative
138 action by the Mississippi State Department of Health as to the
139 suspension, revocation or restriction of the license of the
140 licensee.

141 **SECTION 3.** This act shall take effect and be in force from
142 and after July 1, 2023.

