

By: Representative Watson

To: Public Health and Human Services

HOUSE BILL NO. 402  
(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 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; TO AUTHORIZE CHILD CARE  
8 FACILITIES TO ENTER AGREEMENTS WITH THE PARENTS, GUARDIANS OR  
9 CONTACT PERSONS OF THE CHILDREN AT THE TIME OF REGISTRATION TO  
10 INFORM THEM IF THE CHILD DOES NOT ARRIVE AT THE FACILITY WITHIN A  
11 REASONABLE TIME; AND FOR RELATED PURPOSES.

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

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

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

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

27 (i) Child-care facilities that operate for no more  
28 than two (2) days a week, whose primary purpose is to provide  
29 respite for the caregiver or temporary care during other scheduled  
30 or related activities and organized programs that operate for

31 three (3) or fewer weeks per year such as, but not limited to,  
32 vacation bible schools and scout day camps.

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

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

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

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

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

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

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

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

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

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

96           (e) "Operator" means any person, acting individually or  
97 jointly with another person or persons, who \* \* \* establishes,  
98 owns, operates, conducts or maintains a child-care facility. The  
99 child-care facility license shall be issued in the name of the  
100 operator, or, if there is more than one (1) operator, in the name  
101 of one (1) of the operators. If there is more than one (1)  
102 operator, all statutory and regulatory provisions concerning the  
103 background checks of operators shall be equally applied to all  
104 operators of a facility, including, but not limited to, a spouse  
105 who jointly owns, operates or maintains the child-care facility  
106 regardless of which particular person is named on the license.

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

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

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

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

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

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

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

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

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

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

134           (3) Each child care facility shall develop and maintain a  
135 current list of contact persons for each child provided care by  
136 that facility. An agreement may be made between the child care  
137 facility and the child's parent, guardian or contact person at the  
138 time of registration to inform the parent, guardian or contact  
139 person if the child does not arrive at the facility within a  
140 reasonable time.

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

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

160 fingerprints shall be forwarded by the Department of Public Safety  
161 to the FBI for a national criminal history record check.

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

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

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

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