

## House Bill No. 869

An act relating to child care; amending s. 110.151, F.S.; modifying duties of state agencies regarding child care programs sponsored by the agencies; creating s. 196.095, F.S.; providing for a tax exemption for real estate used and owned by a child care facility operating in an enterprise zone; providing procedures for application for the tax exemption; amending s. 212.08, F.S.; providing a sales tax exemption for educational materials purchased by child care facilities, under certain conditions; amending s. 402.26, F.S.; providing legislative intent that certain licensed child care facilities be considered an educational institution for the purpose of qualifying for exemption from ad valorem taxation; amending s. 402.281, F.S.; providing for Gold Seal Quality Care designation for large family child care homes; amending s. 402.3015, F.S.; increasing the maximum family income for participation in the subsidized child care program; creating s. 402.3016, F.S.; providing for Early Head Start collaboration grants, contingent upon specific appropriations; providing duties of the Florida Partnership for School Readiness; providing for rules; amending s. 402.302, F.S.; defining the term "large family child care home"; creating s. 402.3027, F.S.; directing the department to establish a system for the behavioral observation and developmental assessment of young children in subsidized child care programs; providing definitions; providing principles and procedures; amending s. 402.305, F.S.; revising minimum training requirements for child care personnel; providing minimum training requirements for child care facility directors; providing for development of minimum standards for specialized child care facilities for mildly ill children; amending s. 402.3051, F.S.; providing for child care market rate reimbursement for child care providers who hold a Gold Seal Quality Care designation; amending ss. 402.3055, 943.0585, 943.059, F.S.; conforming cross-references; creating s. 402.3108, F.S.; establishing a toll-free telephone line to provide consultation to child care centers and family day care homes, contingent upon specific appropriations; providing for contracts; amending s. 402.313, F.S.; revising requirements relating to the training course for operators of family day care homes; providing a compliance schedule; creating s. 402.3131, F.S.; providing for licensure of large family child care homes; providing a penalty; providing requirements and standards; providing duties of the department; providing for screening of certain persons; providing for rules; requiring the Department of Insurance to conduct a study on health insurance for child care provider staff; requiring a report; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (2) of section 110.151, Florida Statutes, is amended to read:

110.151 State officers' and employees' child care services.—

(2) Child care programs may be located in state-owned office buildings, educational facilities and institutions, custodial facilities and institutions, and, with the consent of the President of the Senate and the Speaker of the House of Representatives, in buildings or spaces used for legislative activities. In addition, centers may be located in privately owned buildings conveniently located to the place of employment of those officers and employees to be served by the centers. If a child care program is located in a state-owned office building, educational facility or institution, or custodial facility or institution, or in a privately owned building leased by the state, a portion of the service provider's rental fees for child care space may be waived by the sponsoring agency in accordance with the rules of the Department of Management Services. Additionally, the sponsoring state agency may be responsible for the maintenance, utilities, and other operating costs associated with the ~~physical facility of the child care center~~.

Section 2. Section 196.095 is created to read:

196.095 Exemption for a licensed child care facility operating in an enterprise zone.—

(1) Any real estate used and owned as a child care facility as defined in s. 402.302 which operates in an enterprise zone pursuant to chapter 290 is exempt from taxation.

(2) To claim an enterprise zone child care property tax exemption authorized by this section, a child care facility must file an application under oath with the governing body or enterprise zone development agency having jurisdiction over the enterprise zone where the child care center is located. Within 10 working days after receipt of an application, the governing body or enterprise zone development agency shall review the application to determine if it contains all the information required pursuant to this section and meets the criteria set out in this section. The governing body or agency shall certify all applications that contain the information required pursuant to this section and meet the criteria set out in this section as eligible to receive an ad valorem tax exemption. The child care center shall be responsible for forwarding all application materials to the governing body or enterprise zone development agency.

(3) The production by the child care facility operator of a current license by the Department of Children and Family Services or local licensing authority and certification by the governing body or enterprise zone where the child care center is located is prima facie evidence that the child care facility owner is entitled to such exemptions.

Section 3. Paragraph (zz) is added to subsection (5) of section 212.08, Florida Statutes, 1998 Supplement, to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state

of the following are hereby specifically exempt from the tax imposed by this chapter.

(5) EXEMPTIONS; ACCOUNT OF USE.—

(zz) Educational materials, such as glue, paper, paints, crayons, unique craft items, scissors, books, and educational toys, purchased by a child care facility that meets the standards delineated in s. 402.305, is licensed under s. 402.308, holds a current Gold Seal Quality Care designation pursuant to s. 402.281, and provides basic health insurance to all employees are exempt from the taxes imposed by this chapter. For purposes of this paragraph, the term “basic health insurance” shall be defined and promulgated in rules developed jointly by the Department of Children and Family Services, the Agency for Health Care Administration, and the Department of Insurance.

Exemptions provided to any entity by this subsection shall not inure to any transaction otherwise taxable under this chapter when payment is made by a representative or employee of such entity by any means, including, but not limited to, cash, check, or credit card even when that representative or employee is subsequently reimbursed by such entity.

Section 4. Section 402.26, Florida Statutes, is amended to read:

402.26 Child care; legislative intent.—

(1) The Legislature recognizes the critical importance to the citizens of the state of both safety and quality in child care. Child care in Florida is in the midst of continuing change and development, driven by extraordinary changes in demographics. Many parents with children under age 6 are employed outside the home. For the majority of Florida's children, child care will be a common experience. For many families, child care is an indispensable part of the effort to meet basic economic obligations or to make economic gains. State policy continues to recognize the changing composition of the labor force and the need to respond to the concerns of Florida's citizens as they enter the child care market. In particular, the Legislature recognizes the need to have more working parents employed in family-friendly workplaces. In addition, the Legislature recognizes the abilities of public and private employers to assist the family's efforts to balance family care needs with employment opportunities.

(2) The Legislature also recognizes the effects of both safety and quality in child care in reducing the need for special education, public assistance, and dependency programs and in reducing the incidence of delinquency and educational failure. In a budgetary context that spends billions of dollars to address the aftermath of bad outcomes, safe, quality child care is one area in which the often maligned concept of cost-effective social intervention can be applied. It is the intent of the Legislature, therefore, that state policy should be firmly embedded in the recognition that child care is a voluntary choice of the child's parents. For parents who choose child care, it is the intent of the Legislature to protect the health and welfare of children in care.

(3) To protect the health and welfare of children, it is the intent of the Legislature to develop a regulatory framework that promotes the growth

and stability of the child care industry and facilitates the safe physical, intellectual, motor, and social development of the child.

(4) It is also the intent of the Legislature to promote the development of child care options in the private sector and disseminate information that will assist the public in determining appropriate child care options.

(5) It is the further intent of the Legislature to provide and make accessible child care opportunities for children at risk, economically disadvantaged children, and other children traditionally disenfranchised from society. In achieving this intent, the Legislature shall develop a subsidized child care system, a range of child care options, support services, and linkages with other programs to fully meet the child care needs of this population.

(6) It is the intent of the Legislature that a child care facility licensed pursuant to s. 402.305 or a child care facility exempt from licensing pursuant to s. 402.316, that achieves Gold Seal Quality status pursuant to s. 402.281, be considered an educational institution for the purpose of qualifying for exemption from ad valorem tax pursuant to s. 196.198.

Section 5. Subsection (2) of section 402.281, Florida Statutes, is amended to read:

402.281 Gold Seal Quality Care program.—

(2) Child care facilities, large family child care homes, or family day care homes ~~that which~~ are accredited by a nationally recognized accrediting association whose standards substantially meet or exceed the National Association for the Education of Young Children (NAEYC), the National Association of Family Child Care, and the National Early Childhood Program Accreditation Commission shall receive a separate “Gold Seal Quality Care” designation to operate as a gold seal child care facility, large family child care home, or family day care home.

Section 6. Subsection (1) of section 402.3015, Florida Statutes, is amended to read:

402.3015 Subsidized child care program; purpose; fees; contracts.—

(1) The purpose of the subsidized child care program is to provide quality child care to enhance the development, including language, cognitive, motor, social, and self-help skills of children who are at risk of abuse or neglect and children of low-income families, and to promote financial self-sufficiency and life skills for the families of these children, unless prohibited by federal law. Priority for participation in the subsidized child care program shall be accorded to children under 13 years of age who are:

(a) Determined to be at risk of abuse, neglect, or exploitation and who are currently clients of the department’s Children and Families ~~Services~~ Program Office;

(b) Children at risk of welfare dependency, including children of participants in the WAGES Program, children of migrant farmworkers, children

of teen parents, and children from other families at risk of welfare dependency due to a family income of less than 100 percent of the federal poverty level; and

(c) Children of working families whose family income is equal to or greater than 100 percent, but does not exceed 150 percent, of the federal poverty level; and-

(d) Children of working families enrolled in the Child Care Executive Partnership Program whose family income does not exceed 200 percent of the federal poverty level.

Section 7. Section 402.3016, Florida Statutes, is created to read:

402.3016 Early Head Start collaboration grants.—

(1) Contingent upon specific appropriations, the Florida Partnership for School Readiness shall establish a program to award collaboration grants to assist local agencies in securing Early Head Start programs through Early Head Start program federal grants. The collaboration grants shall provide the required matching funds for public and private nonprofit agencies that have been approved for Early Head Start program federal grants.

(2) Public and private nonprofit agencies providing Early Head Start programs applying for collaborative grants must:

(a) Ensure quality performance by meeting the requirements in the Head Start program performance standards and other applicable rules and regulations;

(b) Ensure collaboration with other service providers at the local level; and

(c) Ensure that a comprehensive array of health, nutritional, and other services are provided to the program's pregnant women and very young children, and their families.

(3) The partnership shall report to the Legislature on an annual basis the number of agencies receiving Early Head Start collaboration grants and the number of children served.

(4) The partnership may adopt rules as necessary for the award of collaboration grants to competing agencies and the administration of the collaboration grants program under this section.

Section 8. Present subsections (8) through (15) of section 402.302, Florida Statutes, 1998 Supplement, are renumbered as subsections (9) through (16), respectively, and a new subsection (8) is added to that section to read:

402.302 Definitions.—

(8) "Large family child care home" means an occupied residence in which child care is regularly provided for children from at least two unrelated families, which receives a payment, fee, or grant for any of the children

receiving care, whether or not operated for profit, and which has at least two full-time child care personnel on the premises during the hours of operation. One of the two full-time child care personnel must be the owner or occupant of the residence. A large family child care home must first have operated as a licensed family day care home for 2 years, with an operator who has had a child development associate credential or its equivalent for 1 year, before seeking licensure as a large family child care home. A large family child care home shall be allowed to provide care for one of the following groups of children, which shall include those children under 12 years of age who are related to the caregiver:

(a) A maximum of 8 children from birth to 24 months of age.

(b) A maximum of 12 children, with no more than 4 children under 24 months of age.

Section 9. Section 402.3027, Florida Statutes, is created to read:

402.3027 Observation and assessment of young children in subsidized child care programs.—The Department of Children and Family Services is directed to establish a system for the behavioral observation and developmental assessment of young children in subsidized child care programs, to assist in determining appropriate developmental age level, the need for formal developmental assessment, or the need to make referrals for necessary early intervention programs and specialized services.

(1) DEFINITIONS.—

(a) “Developmental assessment test” means a standardized assessment test designed to identify normal child development or developmental delays.

(b) “Developmental milestones” means behaviors that a child should be exhibiting by a certain age in the cognitive, physical/psychomotor, and social domains.

(c) “Developmental observation checklist” means a behavioral observation instrument used to identify developmental milestones.

(d) “Diagnostic assessments test” means a test designed to identify children with specific special needs, determine the nature of the problem, suggest the cause of the problem, and propose remediation strategies.

(e) “School readiness tests” means tests designed to assess a child’s level of preparedness for an academic program.

(2) PRINCIPLES.—In the development of a system for the behavioral observation and developmental assessment of young children in subsidized child care, the department shall adhere to the following principles:

(a) Informed consent of the child’s parent shall be secured prior to all Level II and Level III assessments.

(b) All standardized tests used in early childhood programs must be reliable and valid according to the technical standards of test development.

(c) It is the responsibility of the program operator and child care staff to be knowledgeable regarding child development and the use of behavioral observation instruments.

(d) Standardized assessment tests and diagnostic assessments tests shall only be administered by professional and trained staff.

(e) Testing of young children must be conducted by individuals who are knowledgeable about and sensitive to the developmental needs of young children and are qualified to administer tests.

(f) Parents shall be full partners in the assessment process and parent training shall be made available.

(3) PROCEDURES.—The department shall implement the following assessment procedures for all children in a subsidized child care arrangement:

(a) Level I assessment.—

1. The purpose of Level I assessment is to identify and monitor normal development or possible developmental delay.

2. All children in care who are between the ages of 1 year and 4 years, inclusive, shall be screened every 6 months using a department-approved developmental observation checklist.

3. The results indicated by the checklist shall be reviewed by the facility's child development associate or by the community child care coordinating agency.

4. The department shall establish procedures to provide feedback to parents regarding observed development and activities, including parent training, to enhance the child's cognitive, psychomotor, and social skills.

(b) Level II assessment.—

1. The purpose of Level II assessment is to determine whether a delay identified in a Level I assessment can be addressed by the child care facility or family day care home or whether a special service or further assessment is needed.

2. Level II assessment shall be conducted by trained professional staff.

3. The department shall establish procedures to:

a. Develop individualized learning plans for implementation by the primary caregiver.

b. Adopt and offer a program of intensive language or math activities provided by visiting specialist.

c. Adopt and offer a program of parent training and home visits.

(c) Level III assessment.—When indicated by a Level II assessment, the department shall establish procedures to refer a child to Level III assess-

ment providers such as Florida Diagnostic and Learning Resource Services, Medicaid/Early Periodic Screening, Diagnosis, and Testing (EPSDT), Children's Medical Services, and other health services, to determine eligibility for an early intervention program.

Section 10. Paragraph (d) of subsection (2) of section 402.305, Florida Statutes, 1998 Supplement, is amended, paragraph (f) is added to subsection (2), present subsections (17) and (18) are renumbered as subsections (18) and (19), respectively, and a new subsection (17) is added to that section, to read:

402.305 Licensing standards; child care facilities.—

(2) PERSONNEL.—Minimum standards for child care personnel shall include minimum requirements as to:

(d) Minimum ~~staff~~ training requirements for child care personnel.

1. Such minimum standards for training shall ensure that all child care personnel and operators of family day care homes serving at-risk children in a subsidized child care program pursuant to s. 402.3015 take an approved 40-clock-hour ~~30-clock-hour~~ introductory course in child care, which course covers at least the following topic areas:

- a. State and local rules and regulations which govern child care.
- b. Health, safety, and nutrition.
- c. Identifying and reporting child abuse and neglect.
- d. Child development, including typical and atypical language, cognitive, motor, social, and self-help skills development.
- e. Observation of developmental behaviors, including using a checklist or other similar observation tools and techniques to determine the child's developmental age level.

~~f.e.~~ Specialized areas, as determined by the department, for owner-operators and child care personnel of a child care facility.

Within 90 days of employment, child care personnel shall begin training to meet the training requirements and shall complete such training within 1 year of the date on which the training began. Exemption from all or a portion of the required training shall be granted to child care personnel based upon educational credentials or passage of competency examinations.

2. The introductory course in child care shall stress, to the extent possible, an interdisciplinary approach to the study of children.

3. On an annual basis in order to further their child care skills and, if appropriate, administrative skills, child care personnel who have fulfilled the requirements for the child care training shall be required to take an additional approved 8 clock hours of inservice training or an equivalent as determined by the department.

4. Procedures for ensuring the training of qualified child care professionals to provide training of child care personnel, including onsite training, shall be included in the minimum standards. It is recommended that the state community child care coordination agencies (central agencies) be contracted by the department to coordinate such training when possible. Other district educational resources, such as community colleges and vocational-technical programs, can be designated in such areas where central agencies may not exist or are determined not to have the capability to meet the coordination requirements set forth by the department.

5. Training requirements shall not apply to certain occasional or part-time support staff, including, but not limited to, swimming instructors, piano teachers, dance instructors, and gymnastics instructors.

6. The State Coordinating Council for Early Childhood Services, in coordination with the department, shall evaluate or contract for an evaluation for the general purpose of determining the status of and means to improve staff training requirements and testing procedures. The evaluation shall be completed by October 1, 1992, and conducted every 2 years thereafter. The evaluation shall include, but not be limited to, determining the availability, quality, scope, and sources of current staff training; determining the need for specialty training; and determining ways to increase inservice training and ways to increase the accessibility, quality, and cost-effectiveness of current and proposed staff training. The evaluation methodology shall include a reliable and valid survey of child care personnel.

7. The child care operator shall be required to take basic training in serving children with disabilities within 5 years after employment, either as a part of the introductory training or the annual 8 hours of inservice training.

(f) By January 1, 2000, a credential for child care facility directors. By January 1, 2003, the credential shall be a required minimum standard for licensing.

(17) SPECIALIZED CHILD CARE FACILITIES FOR THE CARE OF MILDLY ILL CHILDREN.—Minimum standards shall be developed by the department, in conjunction with the Department of Health, for specialized child care facilities for the care of mildly ill children. The minimum standards shall address the following areas: ~~personnel requirements; staff-to-child ratios; staff training and credentials; health and safety; physical facility requirements, including square footage; client eligibility, including a definition of “mildly ill children”; sanitation and safety; admission and recordkeeping; dispensing of medication; and a schedule of activities.~~

Section 11. Subsection (2) of section 402.3051, Florida Statutes, is amended to read:

402.3051 Child care market rate reimbursement; child care grants.—

(2) The department shall establish procedures to reimburse licensed, exempt, or registered child care providers who hold a Gold Seal Quality Care designation at the market rate for child care services for children who are

eligible to receive subsidized child care; and licensed, exempt, or registered child care providers at the prevailing market rate for child care services for children who are eligible to receive subsidized child care, unless prohibited by federal law under s. 402.3015. The department shall establish procedures to reimburse providers of unregulated child care at not more than 50 percent of the market rate. The payment system may not interfere with the parents' decision as to the appropriate child care arrangement, regardless of the level of available funding for child care. The child care program assessment tool may not be used to determine reimbursement rates.

Section 12. Paragraphs (b), (d), and (g) of subsection (2) of section 402.3055, Florida Statutes, are amended to read:

402.3055 Child care personnel requirements.—

(2) EXCLUSION FROM OWNING, OPERATING, OR BEING EMPLOYED BY A CHILD CARE FACILITY OR OTHER CHILD CARE PROGRAM; HEARINGS PROVIDED.—

(b) When the department or the local licensing agency has reasonable cause to believe that grounds for denial or termination of employment exist, it shall notify, in writing, the applicant, licensee, or other child care program and the child care personnel affected, stating the specific record which indicates noncompliance with the standards in s. 402.305(2)(4).

(d) When a local licensing agency is the agency initiating the statement regarding noncompliance of an employee with the standards contained in s. 402.305(2)(4), the employee, applicant, licensee, or other child care program has 15 days from the time of written notification of the agency's finding to make a written request for a hearing. If a request for a hearing is not received in that time, the permanent employee, applicant, licensee, or other child care program is presumed to accept the finding.

(g) Refusal on the part of an applicant or licensee to dismiss child care personnel who have been found to be in noncompliance with personnel standards of s. 402.305(2)(4) shall result in automatic denial or revocation of the license in addition to any other remedies pursued by the department or local licensing agency.

Section 13. Section 402.3018, Florida Statutes, is created to read:

402.3018 Consultation to child care centers and family day care homes regarding health, developmental, disability, and special needs issues.—

(1) Contingent upon specific appropriations, the department is directed to contract with the statewide resource information and referral agency for a statewide toll-free Warm-Line for the purpose of providing assistance and consultation to child care centers and family day care homes regarding health, developmental, disability, and special needs issues of the children they are serving, particularly children with disabilities and other special needs.

(2) The purpose of the Warm-Line is to provide advice to child care personnel concerning strategies, curriculum, and environmental adapta-

tions that allow a child to derive maximum benefit from the child care experience.

(3) The department shall inform child care centers and family day care homes of the availability of this service, on an annual basis.

(4) Contingent upon specific appropriations, the department shall expand or contract for the expansion of the Warm-Line from one statewide site to one Warm-Line site in each child care resource and referral agency region.

(5) Each regional Warm-Line shall provide assistance and consultation to child care centers and family day care homes regarding health, developmental, disability, and special needs issues of the children they are serving, particularly children with disabilities and other special needs. Regional Warm-Line staff shall provide onsite technical assistance, when requested, to assist child care centers and family day care homes with inquiries relative to the strategies, curriculum, and environmental adaptations the child care centers and family day care homes may need as they serve children with disabilities and other special needs.

Section 14. Subsections (1) and (4) of section 402.313, Florida Statutes, are amended to read:

402.313 Family day care homes.—

(1) Family day care homes shall be licensed under this act if they are presently being licensed under an existing county licensing ordinance, if they are participating in the subsidized child care program, or if the board of county commissioners passes a resolution that family day care homes be licensed. If no county authority exists for the licensing of a family day care home, the department shall have the authority to license family day care homes under contract for the purchase-of-service system in the subsidized child care program.

(a) If not subject to license, family day care homes shall register annually with the department, providing the following information:

1. The name and address of the home.<sub>57</sub>
2. The name of the operator.<sub>57</sub>
3. The number of children served.<sub>57</sub>
4. Proof of a written plan to provide at least one other competent adult to be available to substitute for the operator in an emergency. This plan shall include the name, address, and telephone number of the designated substitute.<sub>57</sub>
5. Proof of screening and background checks.<sub>57</sub>
6. Proof of completion of the 30-hour ~~3-hour~~ training course, which shall include:
  - a. State and local rules and regulations that govern child care.

- b. Health, safety, and nutrition.
  - c. Identifying and reporting child abuse and neglect.
  - d. Child development, including typical and atypical language development; and cognitive, motor, social, and self-help skills development.
  - e. Observation of developmental behaviors, including using a checklist or other similar observation tools and techniques to determine a child's developmental level.
  - f. Specialized areas, as determined by the department, for owner-operators of family day care homes. ~~and~~
7. Proof that immunization records are kept current.

(b) The department or local licensing agency may impose an administrative fine, not to exceed \$100, for failure to comply with licensure or registration requirements.

(c) A family day care home not participating in the subsidized child care program may volunteer to be licensed under the provisions of this act.

(d) The department may provide technical assistance to counties and family day care home providers to enable counties and family day care providers to achieve compliance with family day care homes standards.

(4) Operators of family day care homes shall take an approved 30-clock-hour ~~3-clock-hour~~ introductory course in child care. Family day care homes licensed or registered on June 30, 1999, shall have until June 30, 2001, to comply with this course requirement, except that the department shall exempt family day care homes in this category that can demonstrate that the operator has received at least 30 hours of training. Family day care homes initially licensed or registered on or after July 1, 1999, but before October 1, 1999, shall have until October 1, 1999, to comply with the 30-clock-hour course requirement. Family day care homes initially licensed or registered on or after October 1, 1999, must comply with the 30-clock-hour course requirement before caring for children.

Section 15. Section 402.3131, Florida Statutes, is created to read:

402.3131 Large family child care homes.—

(1) Large family child care homes shall be licensed under this section.

(a) The department or local licensing agency may impose an administrative fine, not to exceed \$1,000, for failure to comply with licensure requirements.

(b) A licensed family day care home must first have operated for a minimum of 2 consecutive years, with an operator who has had a child development associate credential or its equivalent for 1 year, before seeking licensure as a large family child care home.

(c) The department may provide technical assistance to counties and family day care home providers to enable the counties and providers to achieve compliance with minimum standards for large family child care homes.

(2) Child care personnel in large family child care homes shall be subject to the applicable screening provisions contained in ss. 402.305(2) and 402.3055. For purposes of screening child care personnel in large family child care homes, the term "child care personnel" includes any member of a large family child care home operator's family 12 years of age or older, or any person 12 years of age or older residing with the operator in the large family child care home. Members of the operator's family, or persons residing with the operator, who are between the ages of 12 years and 18 years, inclusive, shall not be required to be fingerprinted, but shall be screened for delinquency records.

(3) Operators of large family child care homes shall take an approved 40-clock-hour introductory course in group child care.

(4) The department shall prepare a brochure on large family child care homes for distribution to the general public.

(5) The department shall, by rule, establish minimum standards for large family child care homes. The standards shall include, at a minimum, requirements for staffing, maintenance of immunization records, minimum health standards, minimum safety standards, minimum square footage, and enforcement of standards.

(6) Prior to being licensed by the department, large family child care homes must be approved by the state or local fire marshal in accordance with standards established for child care facilities.

Section 16. Paragraph (a) of subsection (4) of section 943.0585, Florida Statutes, 1998 Supplement, is amended to read:

943.0585 Court-ordered expunction of criminal history records.—The courts of this state have jurisdiction over their own procedures, including the maintenance, expunction, and correction of judicial records containing criminal history information to the extent such procedures are not inconsistent with the conditions, responsibilities, and duties established by this section. Any court of competent jurisdiction may order a criminal justice agency to expunge the criminal history record of a minor or an adult who complies with the requirements of this section. The court shall not order a criminal justice agency to expunge a criminal history record until the person seeking to expunge a criminal history record has applied for and received a certificate of eligibility for expunction pursuant to subsection (2). A criminal history record that relates to a violation of chapter 794, s. 800.04, s. 817.034, s. 827.071, chapter 839, s. 893.135, or a violation enumerated in s. 907.041 may not be expunged, without regard to whether adjudication was withheld, if the defendant was found guilty of or pled guilty or nolo contendere to the offense, or if the defendant, as a minor, was found to have committed, or pled guilty or nolo contendere to committing, the offense as a delinquent act. The court may only order expunction of a criminal history

record pertaining to one arrest or one incident of alleged criminal activity, except as provided in this section. The court may, at its sole discretion, order the expunction of a criminal history record pertaining to more than one arrest if the additional arrests directly relate to the original arrest. If the court intends to order the expunction of records pertaining to such additional arrests, such intent must be specified in the order. A criminal justice agency may not expunge any record pertaining to such additional arrests if the order to expunge does not articulate the intention of the court to expunge a record pertaining to more than one arrest. This section does not prevent the court from ordering the expunction of only a portion of a criminal history record pertaining to one arrest or one incident of alleged criminal activity. Notwithstanding any law to the contrary, a criminal justice agency may comply with laws, court orders, and official requests of other jurisdictions relating to expunction, correction, or confidential handling of criminal history records or information derived therefrom. This section does not confer any right to the expunction of any criminal history record, and any request for expunction of a criminal history record may be denied at the sole discretion of the court.

(4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any criminal history record of a minor or an adult which is ordered expunged by a court of competent jurisdiction pursuant to this section must be physically destroyed or obliterated by any criminal justice agency having custody of such record; except that any criminal history record in the custody of the department must be retained in all cases. A criminal history record ordered expunged that is retained by the department is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and not available to any person or entity except upon order of a court of competent jurisdiction. A criminal justice agency may retain a notation indicating compliance with an order to expunge.

(a) The person who is the subject of a criminal history record that is expunged under this section or under other provisions of law, including former s. 893.14, former s. 901.33, and former s. 943.058, may lawfully deny or fail to acknowledge the arrests covered by the expunged record, except when the subject of the record:

1. Is a candidate for employment with a criminal justice agency;
2. Is a defendant in a criminal prosecution;
3. Concurrently or subsequently petitions for relief under this section or s. 943.059;
4. Is a candidate for admission to The Florida Bar;
5. Is seeking to be employed or licensed by or to contract with the Department of Children and Family Services or the Department of Juvenile Justice or to be employed or used by such contractor or licensee in a sensitive position having direct contact with children, the developmentally disabled, the aged, or the elderly as provided in s. 110.1127(3), s. 393.063(14), s. 394.4572(1), s. 397.451, s. 402.302(3)(8), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s. 415.1075(4), s. 985.407, or chapter 400; or

6. Is seeking to be employed or licensed by the Office of Teacher Education, Certification, Staff Development, and Professional Practices of the Department of Education, any district school board, or any local governmental entity that licenses child care facilities.

Section 17. Paragraph (a) of subsection (4) of section 943.059, Florida Statutes, 1998 Supplement, is amended to read:

943.059 Court-ordered sealing of criminal history records.—The courts of this state shall continue to have jurisdiction over their own procedures, including the maintenance, sealing, and correction of judicial records containing criminal history information to the extent such procedures are not inconsistent with the conditions, responsibilities, and duties established by this section. Any court of competent jurisdiction may order a criminal justice agency to seal the criminal history record of a minor or an adult who complies with the requirements of this section. The court shall not order a criminal justice agency to seal a criminal history record until the person seeking to seal a criminal history record has applied for and received a certificate of eligibility for sealing pursuant to subsection (2). A criminal history record that relates to a violation of chapter 794, s. 800.04, s. 817.034, s. 827.071, chapter 839, s. 893.135, or a violation enumerated in s. 907.041 may not be sealed, without regard to whether adjudication was withheld, if the defendant was found guilty of or pled guilty or nolo contendere to the offense, or if the defendant, as a minor, was found to have committed or pled guilty or nolo contendere to committing the offense as a delinquent act. The court may only order sealing of a criminal history record pertaining to one arrest or one incident of alleged criminal activity, except as provided in this section. The court may, at its sole discretion, order the sealing of a criminal history record pertaining to more than one arrest if the additional arrests directly relate to the original arrest. If the court intends to order the sealing of records pertaining to such additional arrests, such intent must be specified in the order. A criminal justice agency may not seal any record pertaining to such additional arrests if the order to seal does not articulate the intention of the court to seal records pertaining to more than one arrest. This section does not prevent the court from ordering the sealing of only a portion of a criminal history record pertaining to one arrest or one incident of alleged criminal activity. Notwithstanding any law to the contrary, a criminal justice agency may comply with laws, court orders, and official requests of other jurisdictions relating to sealing, correction, or confidential handling of criminal history records or information derived therefrom. This section does not confer any right to the sealing of any criminal history record, and any request for sealing a criminal history record may be denied at the sole discretion of the court.

(4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal history record of a minor or an adult which is ordered sealed by a court of competent jurisdiction pursuant to this section is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and is available only to the person who is the subject of the record, to the subject's attorney, to criminal justice agencies for their respective criminal justice purposes, or to those entities set forth in subparagraphs (a)1., 4., 5., and 6. for their respective licensing and employment purposes.

(a) The subject of a criminal history record sealed under this section or under other provisions of law, including former s. 893.14, former s. 901.33, and former s. 943.058, may lawfully deny or fail to acknowledge the arrests covered by the sealed record, except when the subject of the record:

1. Is a candidate for employment with a criminal justice agency;
2. Is a defendant in a criminal prosecution;
3. Concurrently or subsequently petitions for relief under this section or s. 943.0585;
4. Is a candidate for admission to The Florida Bar;
5. Is seeking to be employed or licensed by or to contract with the Department of Children and Family Services or the Department of Juvenile Justice or to be employed or used by such contractor or licensee in a sensitive position having direct contact with children, the developmentally disabled, the aged, or the elderly as provided in s. 110.1127(3), s. 393.063(14), s. 394.4572(1), s. 397.451, s. 402.302(3)(8), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s. 415.103, s. 985.407, or chapter 400; or
6. Is seeking to be employed or licensed by the Office of Teacher Education, Certification, Staff Development, and Professional Practices of the Department of Education, any district school board, or any local governmental entity which licenses child care facilities.

Section 18. The Department of Insurance shall conduct a study and report to the President of the Senate, the Speaker of the House of Representatives, and the appropriate substantive and fiscal committees of the Senate and the House of Representatives, by January 31, 2000, regarding how to make affordable health insurance available to the staff of child care providers. The study shall include consideration of a program for providing medical savings accounts.

Section 19. This act shall take effect July 1, 1999.

Approved by the Governor June 8, 1999.

Filed in Office Secretary of State June 8, 1999.