

Senate Bill 152

By: Senators Balfour of the 9th and Unterman of the 45th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 1A of Title 20 of the Official Code of Georgia Annotated,
2 relating to early care and learning, so as to exempt day-care centers and child care learning
3 centers operated as part of a local church ministry or a nonprofit religious school or a
4 nonprofit religious charitable organization from certain licensing and regulation; to provide
5 for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 1 of Chapter 1A of Title 20 of the Official Code of Georgia Annotated, relating to
9 early care and learning, is amended by revising Code Section 20-1A-10, relating to annual
10 licensing or commissioning of early care and education centers, as follows:

11 "20-1A-10.

12 (a) The department is authorized and empowered to establish, maintain, extend, and
13 improve throughout the state, within the limits of funds appropriated for such purposes, the
14 regulation of early care and education programs by providing consultation and making
15 recommendations concerning establishment and implementation of such programs and by
16 licensing and inspecting periodically all such programs to ensure their adherence to this
17 chapter and rules and regulations promulgated by the board.

18 (b) Day-care centers, and child care learning centers, after-school care centers, and
19 summer camp programs operated as part of a local church ministry or a nonprofit religious
20 school or a nonprofit religious charitable organization ~~may notify~~ shall register with the
21 department annually ~~and be commissioned in lieu of being licensed upon request for~~
22 ~~commission~~ but shall be exempt from any requirements for licensing under this chapter and
23 shall not be subject to Article 2 of this chapter. ~~Commissioned day-care~~ Such centers and
24 ~~child care learning centers~~ programs shall operate in accordance with the same procedures,
25 standards, rules, and regulations directly related to fire safety, health, and safety which are
26 established by the board for the operation of licensed day-care centers and child care
27 learning centers but shall be exempt from all other procedures, standards, rules, and

28 regulations of the board. Any day-care center, ~~or~~ child care learning center, after-school
29 care center, or summer camp program operated as part of a local church ministry or a
30 nonprofit religious school or a nonprofit religious charitable organization may elect to
31 ~~apply for a commission~~ be licensed as provided for in subsection (c) of this Code section
32 but shall not be required to do so. The department shall not be authorized to prescribe,
33 question, or regulate the specific content of educational curriculum taught by an early care
34 and education program operated as part of a local church ministry or a nonprofit religious
35 school or a nonprofit religious charitable organization.

36 (c) ~~All~~ Except as provided in subsection (b) of this Code section, all early care and
37 education programs shall be licensed ~~or commissioned~~ annually by the department in
38 accordance with procedures, standards, rules, and regulations to be established by the
39 board; provided, however, that the department may require persons who operate family
40 day-care homes to register with the department.

41 (d) The department shall publish in print or electronically and make available to early care
42 and education programs and interested persons a list of guidelines for quality child care.

43 (e) After an early care and education program has been licensed, ~~commissioned,~~ or
44 registered by the department as provided in this chapter, the program shall not be required
45 to have a permit to operate a food service establishment as required in Code
46 Section 26-2-371, provided that rules and regulations for food service have been
47 incorporated in the regulations for licensing, ~~commissioning,~~ or registering such programs.

48 (f) The department shall not be authorized to prescribe, question, or regulate the specific
49 content of educational curriculum taught by an early care and education program, except
50 to the extent that a program operates Georgia's Pre-K Program or any other voluntary
51 educational program administered by the department.

52 (g) Persons who operate early care and education programs shall be required to post in a
53 conspicuous place next to telephones in the home or center the telephone numbers of the
54 nearest or applicable providers of emergency medical, police, and fire services.

55 (h) Persons who operate early care and education programs shall post signs prohibiting
56 smoking to carry out the purposes of Chapter 12A of Title 31.

57 (i) Group day-care homes, day-care centers, and child care learning centers shall provide
58 a minimum of 35 square feet of usable space consisting of indoor play areas, rest areas, and
59 dining facilities for each child present in the facility. Day-care centers and child care
60 learning centers will be allowed to designate in writing to the department two one-hour
61 periods daily during which 25 square feet of usable space per child for children aged three
62 years and older may be provided. Notwithstanding the limitation to 18 children prescribed
63 in Code Section 20-1A-2, group day-care homes will be allowed to designate in writing to
64 the department two one-hour periods daily during which 25 square feet of usable space per

65 child for children aged three years and older may be provided. Notwithstanding the
66 limitation to six children prescribed in Code Section 20-1A-2, a family day-care home
67 operator may care for two additional children aged three years and older for two designated
68 one-hour periods daily. Notwithstanding the provisions of this subsection, all other
69 applicable rules and regulations shall apply.

70 (j) The department shall assist applicants, licensees, ~~or registrants, or persons holding~~
71 ~~commissions~~ in meeting applicable rules and regulations of the department for early care
72 and education programs.

73 (k)(1) Application for a license, ~~commission, or registration~~ for an early care and
74 education program shall be made to the department upon forms furnished by the
75 department. Upon receipt of an application for a license, ~~registration, or commission~~ and
76 upon presentation by the applicant of evidence that the early care and education program
77 meets the rules and regulations prescribed by the department, the department shall issue
78 such early care and education program a license, ~~registration, or commission~~ for a
79 one-year period.

80 (2) On and after May 12, 2010, the following annual fees shall apply to applications for
81 licensure, ~~registration, or commission~~ as a day-care center, child care learning center,
82 group day-care home, or family day-care home:

83	(A) Capacity of fewer than 25 children	\$ 50.00
84	(B) Capacity of 26 to 50 children	100.00
85	(C) Capacity of 51 to 100 children	150.00
86	(D) Capacity of 101 to 200 children	200.00
87	(E) Capacity of more than 200 children	250.00

88 (l) If the department finds that any early care and education program applicant does not
89 meet rules and regulations prescribed by the department but is attempting to meet such
90 rules and regulations, the department may, in its discretion, issue a temporary license;
91 ~~registration, or commission~~ to such early care and education program, but such temporary
92 license, ~~registration, or commission~~ shall not be issued for more than a one-year period.
93 Upon presentation of satisfactory evidence that such program is making progress toward
94 meeting prescribed rules and regulations of the department, the department may, in its
95 discretion, reissue such temporary license, ~~registration, or commission~~ for one additional
96 period not to exceed one year. As an alternative to a temporary license, ~~registration, or~~
97 ~~commission~~, the department, in its discretion, may issue a restricted license, ~~registration,~~
98 ~~or commission~~ which states the restrictions on its face.

99 (m) The department shall refuse to issue a license, ~~registration, or commission~~ upon a
100 showing of:

- 101 (1) Noncompliance with the rules and regulations for day-care centers, family day-care
102 homes, group day-care homes, or child care learning centers which are designated in
103 writing to the facilities as being related to children's health and safety;
- 104 (2) Flagrant and continued operation of an unlicensed, ~~unregistered, or uncommissioned~~
105 facility in contravention of the law;
- 106 (3) Prior license, ~~registration, or commission~~ denial or revocation within one year of
107 application; or
- 108 (4) Failure to pay the annual fee for licensure, ~~registration, or commission~~ of early care
109 and education programs.
- 110 (n) All licensed, ~~registered, or commissioned~~ early care and education programs shall
111 prominently display the license, ~~registration, or commission~~ issued to such program by the
112 department at some point near the entrance of the premises of such program that is open
113 to view by the public.
- 114 (o) The department's action revoking or refusing to renew or issue a license, ~~registration,~~
115 ~~or commission~~ required by this Code section shall be preceded by notice and opportunity
116 for a hearing and shall constitute a contested case within the meaning of Chapter 13 of Title
117 50, the 'Georgia Administrative Procedure Act,' except that only 30 days' notice in writing
118 from the commissioner's designee shall be required prior to license, ~~registration, or~~
119 ~~commission~~ revocation and except that hearings held relating to such action by the
120 department may be closed to the public if the hearing officer determines that an open
121 hearing would be detrimental to the physical or mental health of any child who will testify
122 at that hearing.
- 123 (p) It shall be the duty of the department to inspect at regular intervals all licensed;
124 ~~registered, or commissioned~~ early care and education programs within the state. The
125 department shall have right of entrance, privilege of inspection, and right of access to all
126 children under the care and control of the licensee, ~~registrant, or commissionee~~.
- 127 (q) If any flagrant abuses, derelictions, or deficiencies are made known to the department
128 or its duly authorized agents during their inspection of any early care and education
129 program or if, at any time, such are reported to the department, the department shall
130 immediately investigate such matters and take such action as conditions may require.
- 131 (r) If abuses, derelictions, or deficiencies are found in the operation and management of
132 any early care and education program, including failure to pay the annual fee for licensure,
133 ~~registration, or commission~~, they shall be brought immediately to the attention of the
134 management of such program; and if correctable, but not corrected within a reasonable
135 time, the department shall revoke the license, ~~registration, or commission~~ of such program
136 in the manner prescribed in this Code section.

137 (s) The department may require periodic reports from early care and education programs
 138 in such forms and at such times as the department may prescribe.

139 (t) Any person who shall operate an early care and education program without a license;
 140 ~~registration, or commission~~ issued by the department shall be guilty of a misdemeanor and,
 141 upon conviction thereof, shall be punished by a fine of not less than \$50.00 nor more than
 142 \$200.00 for each such offense. Each day of operation without a license, ~~registration, or~~
 143 ~~commission~~ shall constitute a separate offense.

144 (u) The department may, without regard to the availability of other remedies, including
 145 administrative remedies, seek an injunction against the continued operation of an early care
 146 and education program without a license, ~~registration, or commission~~ or the continued
 147 operation of an early care and education program in willful violation of this chapter or of
 148 any regulation of the department or of any order of the department.

149 ~~(v) The term "licensed day-care center" shall include a commissioned day-care center and~~
 150 ~~commissioned child care learning center and any references in this Code to a licensed~~
 151 ~~day-care center, including criminal, administrative, and civil provisions applicable to~~
 152 ~~licensed day-care centers, shall include and apply to commissioned day-care centers and~~
 153 ~~commissioned child care learning centers unless otherwise provided in this Code section."~~

154

SECTION 2.

155 Said article is further amended by revising Code Section 20-1A-11, relating to penalties, as
 156 follows:

157 "20-1A-11.

158 (a) Any person who violates the provisions of Code Section 20-2A-10 or who hinders,
 159 obstructs, or otherwise interferes with any representative of the department in the discharge
 160 of that person's official duties in making inspections as provided in such Code section or
 161 in investigating complaints as provided in such Code section shall be guilty of a
 162 misdemeanor.

163 (b)(1) Any person who:

164 (A) Violates any licensing, ~~commissioning, or registration~~ provision of this chapter or
 165 any rule, regulation, or order issued under this chapter or any term, condition, or
 166 limitation of any license, ~~commission, or registration certificate~~ under this chapter
 167 thereby subjecting a child in care to injury or a life-threatening situation; or

168 (B) Commits any violation for which a license, ~~commission, or registration certificate~~
 169 may be revoked under rules or regulations issued pursuant to this chapter
 170 may be subject to a civil penalty, to be imposed by the department, not to exceed
 171 \$500.00. If any violation is a continuing one, each day of such violation shall constitute
 172 a separate violation for the purpose of computing the applicable civil penalty.

173 (2) Whenever the department proposes to subject a person to the imposition of a civil
 174 penalty under this subsection, it shall notify such person in writing:

175 (A) Setting forth the date, facts, and nature of each act or omission with which the
 176 person is charged;

177 (B) Specifically identifying the particular provision or provisions of the Code section,
 178 rule, regulation, order, or license, ~~commission, or registration certificate~~ involved in the
 179 violation; and

180 (C) Advising of each penalty which the department proposes to impose and its amount.
 181 Such written notice shall be sent by registered or certified mail or statutory overnight
 182 delivery by the department to the last known address of such person. The person so
 183 notified shall be granted an opportunity to show in writing, within such reasonable period
 184 as the department shall by rule or regulation prescribe, why such penalty should not be
 185 imposed. The notice shall also advise such person that, upon failure to pay the civil
 186 penalty subsequently determined by the department, if any, the penalty may be collected
 187 by civil action. Any person upon whom a civil penalty is imposed may appeal such action
 188 pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

189 (3) A civil penalty finally determined under this Code section may be collected by civil
 190 action in the event that such penalty is not paid as required. On the request of the
 191 department, the Attorney General is authorized to institute a civil action to collect a
 192 penalty imposed pursuant to this subsection. The Attorney General shall have the
 193 exclusive power to compromise, mitigate, or remit such civil penalties as are referred to
 194 the Attorney General for collection.

195 (4) All moneys collected from civil penalties shall be paid to the state for deposit in the
 196 general fund."

197 **SECTION 3.**

198 Said article is further amended by revising subsections (a), (b), and (c) of Code
 199 Section 20-1A-12, relating to applications and investigations, as follows:

200 "(a) This Code section shall be applicable to any early care and education program which
 201 is subject to regulation by the department in accordance with this chapter. For purposes
 202 of this Code section, the term 'license' shall be used to refer to any license, ~~registration, or~~
 203 ~~commission~~ issued by the department pursuant to the provisions of this chapter.

204 (b) The department shall have the authority to take any of the actions enumerated in
 205 subsection (c) of this Code section upon a finding that the applicant or holder of a license
 206 has:

207 (1) Knowingly made any false statement of material information in connection with the
 208 application for a license, or in statements made or on documents submitted to the

209 department as part of an inspection, survey, or investigation, or in the alteration or
 210 falsification of records maintained by the early care and education program;

211 (2) Failed or refused to provide the department with access to the premises subject to
 212 regulation or information pertinent to the initial or continued licensing of the program;

213 (3) Failed to comply with the licensing requirements of this state;

214 (4) Failed to pay the annual fee for licensure, ~~registration, or commission~~ of early care
 215 and education programs; or

216 (5) Failed to comply with any provisions of this Code section.

217 (c) When the department finds that any applicant or holder of a license has violated any
 218 provision of subsection (b) of this Code section or laws, rules, regulations, or formal orders
 219 related to the initial or continued licensing of the program, the department, subject to notice
 220 and opportunity for hearing, may take any of the following actions:

221 (1) Refuse to grant a license; provided, however, that the department may refuse to grant
 222 a license without holding a hearing prior to taking such action;

223 (2) Administer a public reprimand;

224 (3) Suspend any license for a definite period or for an indefinite period in connection
 225 with any condition which may be attached to the restoration of said license;

226 (4) Prohibit any applicant or holder of a license from allowing a person who previously
 227 was involved in the management or control, as defined by rule, of any program which has
 228 had its license revoked or denied within the past 12 months to be involved in the
 229 management or control of such program;

230 (5) Revoke any license;

231 (6) Impose a fine, not to exceed a total of \$25,000.00, of up to \$500.00 per day for each
 232 violation of a law, rule, regulation, or formal order related to the initial or ongoing
 233 licensing of any program;

234 (7) Impose a late fee of up to \$250.00 for failure of an early care and education program
 235 to pay the annual fee for licensure, ~~registration, or commission~~ within 30 days of the due
 236 date as established by the department; or

237 (8) Limit or restrict any license as the department deems necessary for the protection of
 238 the public, including, but not limited to, restricting some or all services of or admissions
 239 into a program for a time certain.

240 In taking any of the actions enumerated in this subsection, the department shall consider
 241 the seriousness of the violation, including the circumstances, extent, and gravity of the
 242 prohibited acts, and the hazard or potential hazard created to the health or safety of the
 243 public."

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SECTION 4.

245 Said article is further amended by revising subsection (b) of Code Section 20-1A-13, relating
246 to emergency monitors, as follows:

247 "(b) The commissioner or his or her designee may order the emergency placement of a
248 monitor or monitors in an early care and education program upon a finding that rules and
249 regulations of the department are being violated which threaten the health, safety, or
250 welfare of children in the care of the program and when one or more of the following
251 conditions are present:

252 (1) The program is operating without a license, ~~commission, or registration~~;

253 (2) The department has denied application for license, ~~registration, or commission~~ or has
254 initiated action to revoke the existing license, ~~registration, or commission~~ of the program;
255 or

256 (3) Children are suspected of being subjected to injury or life-threatening situations or
257 the health or safety of a child or children is in danger."

258

SECTION 5.

259 All laws and parts of laws in conflict with this Act are repealed.