

House Bill 354 (AS PASSED HOUSE AND SENATE)

By: Representatives Clark of the 101st, Coleman of the 97th, Tankersley of the 160th, Kaiser of the 59th, Morgan of the 39th, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 20 of the Official Code of Georgia Annotated, relating to education, so as to
2 revise terminology relating to early care and learning; to require the Department of Early
3 Care and Learning to provide certain information to owners of early care and education
4 programs; to authorize the department to administer certain programs; to provide for
5 contested cases; to amend various other titles of the Official Code of Georgia Annotated for
6 purposes of conformity; to provide for related matters; to repeal conflicting laws; and for
7 other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by
11 revising Code Section 20-1A-2, relating to definitions relative to early care and learning, as
12 follows:

13 "20-1A-2.

14 As used in this chapter, the term:

15 (1) 'Board' means the Board of Early Care and Learning.

16 (2) 'Child care learning center' means ~~a day-care center that participates in Georgia's~~
17 ~~Pre-K Program~~ any place operated by a person, society, agency, corporation, institution,
18 or group wherein are received for pay for group care for less than 24 hours per day,
19 without transfer of legal custody, 19 or more children under 18 years of age; provided,
20 however, that this term shall not include a private school which provides kindergarten
21 through grade 12 education, meets the requirements of Code Section 20-2-690, and is
22 accredited by one or more of the entities listed in subparagraph (A) of paragraph (6) of
23 Code Section 20-3-519 and which provides care before, after, or both before and after the
24 customary school day to its students as an auxiliary service to such students during the
25 regular school year only.

26 (3) 'Commissioner' means the commissioner of ~~the Department of Early Care and~~
 27 ~~Learning~~ early care and learning.

28 (4) ~~'Day-care center' means any place operated by a person, society, agency, corporation,~~
 29 ~~institution, or group wherein are received for pay for group care for less than 24 hours per~~
 30 ~~day, without transfer of legal custody, 19 or more children under 18 years of age;~~
 31 ~~provided, however, that this term shall not include a private school which provides~~
 32 ~~kindergarten through grade 12 education, meets the requirements of Code Section~~
 33 ~~20-2-690, and is accredited by one or more of the entities listed in subparagraph (A) of~~
 34 ~~paragraph (6) of Code Section 20-3-519 and which provides care before, after, or both~~
 35 ~~before and after the customary school day to its students as an auxiliary service to such~~
 36 ~~students during the regular school year only.~~

37 (5)(4) 'Department' means the Department of Early Care and Learning.

38 (6)(5) 'Early care and education programs' include all family day-care homes, group
 39 day-care homes, ~~day-care centers~~, and child care learning centers, regardless of whether
 40 such homes or centers offer education.

41 (7)(6) 'Early childhood' means the period of childhood from birth to age six.

42 (8)(7) 'Family day-care home' means a private residence operated by any person who
 43 receives therein for pay for supervision and care fewer than 24 hours per day, without
 44 transfer of legal custody, at least three but not more than six children under ~~18~~ 13 years
 45 of age who are not related to such person and whose parents or guardians are not
 46 residents in the same private residence; provided, however, that the total number of
 47 unrelated children cared for in such home, for pay and not for pay, may not exceed six
 48 children under 13 years of age at one time.

49 (9)(8) 'Group day-care home' means any place operated by any person or group wherein
 50 are received for pay not less than seven nor more than 18 children under 18 years of age
 51 for care and supervision for less than 24 hours per day."

52 SECTION 2.

53 Said title is further amended by revising paragraph (2) of subsection (d) of Code Section
 54 20-1A-3, relating to the commissioner and the board of the Department of Early Care and
 55 Learning, as follows:

56 "(2) Functions transferred to the department from the Department of Human Resources
 57 (now known as the Department of Human Services) relating to day-care centers (now
 58 known as child care learning centers), group day-care homes, family day-care homes, and
 59 other functions as agreed upon by the department and the Department of Human
 60 Resources (now known as the Department of Human Services) in accordance with Code
 61 Section 20-1A-8;"

62 **SECTION 3.**

63 Said title is further amended by revising Code Section 20-1A-4, relating to the powers and
64 duties of the Department of Early Care and Learning, as follows:

65 "20-1A-4.

66 The Department of Early Care and Learning shall have the following powers and duties:

67 (1) To administer such programs and services as may be necessary for the operation and
68 management of voluntary pre-kindergarten, which shall be known as 'Georgia's Pre-K
69 Program';

70 (2) To administer such programs and services as may be necessary for the operation and
71 management of preschool and child development programs, such as Even Start and child
72 care regulation and food programs;

73 (3) To act as the agent of the federal government in conformity with this chapter and the
74 administration of any federal funds granted to the state to aid in the furtherance of any
75 functions of the department;

76 (4) To assist local units of administration in this state so as to assure the proliferation of
77 services under this chapter;

78 (5) To regulate early care and education programs in accordance with this chapter;

79 (6) To perform the functions set out in Code Section 20-1A-64, relating to improvement
80 of the quality, availability, and affordability of child care in this state;

81 (7) To serve as the Head Start state collaboration office;

82 (8) To establish and collect annual fees for licensure, registration, or commission of early
83 care and education programs. Such fees so established shall be reasonable and shall be
84 determined in such a manner that the total amount of fees established shall help defray
85 the direct and indirect costs to the department in performing such function. The
86 department shall remit all fees collected to the general fund of the state;

87 (9) To recommend in writing to the owner of any early care and learning program
88 licensed by the department that such program carry liability insurance coverage sufficient
89 to protect its clients. Any such program which after receiving such recommendation is
90 not covered by liability insurance shall post that fact in a conspicuous place in the
91 program and shall notify the parent or guardian of each child under the care of the
92 program in writing. Such notice shall be in at least 1/2 inch letters. Each such parent or
93 guardian must acknowledge receipt of such notice in writing and a copy of such
94 acknowledgment shall be maintained on file at the program at all times while the child
95 attends the program and for 12 months after the child's last date of attendance. Failure
96 to do so may subject the owner of the program to a civil fine of \$1,000.00 for each such
97 infraction;

98 (10) To administer any programs assigned to it administratively by the Governor
 99 pursuant to his or her powers or any programs for which the Governor designates the
 100 department as the lead agency in the state for a federal program;

101 ~~(9)~~(11) To perform any other functions as agreed upon between the department and the
 102 Department of Human Resources (now known as the Department of Human Services),
 103 pursuant to Code Section 20-1A-8;

104 ~~(10)~~(12) To perform any other functions as agreed upon between the department and the
 105 Department of Education, in accordance with Code Section 20-1A-17; and

106 ~~(11)~~(13) To exercise the powers reasonably necessary to accomplish the purposes of this
 107 chapter, including, but not limited to, contracting for services."

108 SECTION 4.

109 Said title is further amended by revising Code Section 20-1A-9, relating to authority to
 110 license and regulate day-care centers, group day-care homes, and family day-care homes
 111 transferred to the Department of Early Care and Learning, as follows:

112 "20-1A-9.

113 The department shall succeed to all rights and responsibilities relating to licensure and
 114 regulation of day-care centers (now known as child care learning centers), group day-care
 115 homes, and family day-care homes, including such rules, regulations, policies, procedures,
 116 and pending and finalized administrative orders of the Department of Human Resources
 117 (now known as the Department of Human Services), the Georgia Child Care Council, and
 118 the Office of State Administrative Hearings, where applicable, which are in effect on
 119 September 30, 2004, and which relate to the functions transferred to the department
 120 pursuant to Code Section 20-1A-8. Such rights, responsibilities, licenses issued pursuant
 121 to previous law, procedures, and orders shall remain in effect until amended, repealed,
 122 superseded, or nullified by the commissioner. Such rules, regulations, and policies shall
 123 remain in effect until amended, repealed, superseded, or nullified by the board."

124 SECTION 5.

125 Said title is further amended by revising subsections (b), (i), (k)(2), (m), and (v) of Code
 126 Section 20-1A-10, relating to regulation of early care and education programs, as follows:

127 "(b) ~~Day-care centers and child~~ Child care learning centers operated as part of a local
 128 church ministry or a nonprofit religious school or a nonprofit religious charitable
 129 organization may notify the department annually and be commissioned in lieu of being
 130 licensed upon request for commission. Commissioned ~~day-care centers and child~~ care
 131 learning centers shall operate in accordance with the same procedures, standards, rules, and
 132 regulations which are established by the board for the operation of licensed ~~day-care~~

133 ~~centers and~~ child care learning centers. Any ~~day-care center~~ or child care learning center
134 operated as part of a local church ministry or a nonprofit religious school or a nonprofit
135 religious charitable organization may elect to apply for a commission as provided for in
136 subsection (c) of this Code section."

137 "(i) Group day-care homes, ~~day-care centers~~, and child care learning centers shall provide
138 a minimum of 35 square feet of usable space consisting of indoor play areas, rest areas, and
139 dining facilities for each child present in the facility. ~~Day-care centers and child~~ Child care
140 learning centers will be allowed to designate in writing to the department two one-hour
141 periods daily during which 25 square feet of usable space per child for children aged three
142 years and older may be provided. Notwithstanding the limitation to 18 children prescribed
143 in Code Section 20-1A-2, group day-care homes will be allowed to designate in writing to
144 the department two one-hour periods daily during which 25 square feet of usable space per
145 child for children aged three years and older may be provided. Notwithstanding the
146 limitation to six children prescribed in Code Section 20-1A-2, a family day-care home
147 operator may care for two additional children aged three years and older for two designated
148 one-hour periods daily. Notwithstanding the provisions of this subsection, all other
149 applicable rules and regulations shall apply."

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

153	(A) Capacity of fewer than 25 children	\$ 50.00
154	(B) Capacity of 26 to 50 children	100.00
155	(C) Capacity of 51 to 100 children	150.00
156	(D) Capacity of 101 to 200 children	200.00
157	(E) Capacity of more than 200 children	250.00"

158 "(m) The department shall refuse to issue a license, registration, or commission upon a
159 showing of:

- 160 (1) Noncompliance with the rules and regulations for ~~day-care centers~~, family day-care
161 homes, group day-care homes, or child care learning centers which are designated in
162 writing to the facilities as being related to children's health and safety;
- 163 (2) Flagrant and continued operation of an unlicensed, unregistered, or uncommissioned
164 facility in contravention of the law;
- 165 (3) Prior license, registration, or commission denial or revocation within one year of
166 application; or
- 167 (4) Failure to pay the annual fee for licensure, registration, or commission of early care
168 and education programs."

169 "(v) The term 'licensed ~~day-care center~~ child care learning center' shall include a
 170 ~~commissioned day-care center~~ and commissioned child care learning center and any
 171 references in this Code to a licensed ~~day-care center~~ child care learning center, including
 172 criminal, administrative, and civil provisions applicable to licensed ~~day-care centers~~ child
 173 care learning centers, shall include and apply to ~~commissioned day-care centers~~ and
 174 commissioned child care learning centers unless otherwise provided in this Code section."

175 **SECTION 6.**

176 Said title is further amended by adding a new Code section to read as follows:

177 "20-1A-10.1.

178 A determination by the department regarding payments and eligibility pursuant to any
 179 federal program or grant shall be preceded by notice and opportunity for a hearing and shall
 180 constitute a contested case within the meaning of Chapter 13 of Title 50, the 'Georgia
 181 Administrative Procedure Act.'"

182 **SECTION 7.**

183 Said title is further amended by revising paragraph (1) of Code Section 20-1A-30, relating
 184 to definitions for background checks for early care and education programs, as follows:

185 "(1) 'Center' means a ~~day-care center~~, group day-care home, family day-care home, or
 186 child care learning center which is required to be licensed, commissioned, or registered
 187 under Article 1 of this chapter."

188 **SECTION 8.**

189 Said title is further amended by revising paragraph (7) of subsection (a) of Code Section
 190 20-1A-61, relating to the Child Care Council, as follows:

191 "(7) One member shall represent licensed or commissioned church or synagogue
 192 ~~day-care centers~~ child care learning centers;"

193 **SECTION 9.**

194 Code Section 36-87-2 of the Official Code of Georgia Annotated, relating to the authority
 195 of counties and municipal corporations to participate in programs, is amended by revising
 196 subsection (c) as follows:

197 "(c) State agencies rating applications from counties and municipal corporations for federal
 198 funding of the construction of ~~day-care facilities~~ child care learning centers shall, to the
 199 extent allowed under applicable federal laws or regulations, give priority to those ~~day-care~~
 200 ~~centers~~ child care learning centers located in or adjacent to industrial parks."

201 **SECTION 10.**

202 Code Section 42-1-12 of the Official Code of Georgia Annotated, relating to the State Sexual
 203 Offender Registry, is amended by revising paragraphs (6) and (10.1) of subsection (a) as
 204 follows:

205 "(6) 'Child care facility' means all public and private pre-kindergarten facilities, ~~day-care~~
 206 ~~centers~~, child care learning centers, preschool facilities, and long-term care facilities for
 207 children."

208 "~~(10.1)(6.1)~~ ~~'Day-care center~~ Child care learning center' shall have the same meaning as
 209 set forth in paragraph ~~(4)~~(2) of Code Section 20-1A-2."

210 **SECTION 11.**

211 Code Section 49-5-12 of the Official Code of Georgia Annotated, relating to licensing and
 212 inspection of child welfare agencies, is amended by repealing subsection (t) in its entirety.

213 **SECTION 12.**

214 The following Code sections of the Official Code of Georgia Annotated are amended by
 215 replacing "day-care center", "day-care centers", and "Day-care centers" wherever any of
 216 these terms occur with "child care learning center", "child care learning centers", and "Child
 217 care learning centers", respectively:

218 (1) Code Section 16-12-1.1, relating to child, family, or group-care facility operators
 219 prohibited from employing or allowing to reside or be domiciled persons with certain past
 220 criminal violations;

221 (2) Code Section 20-2-771, relating to immunization of students;

222 (3) Code Section 25-2-13, relating to buildings presenting special hazards to persons or
 223 property; requirements as to construction, maintenance, and use generally; effect of rules,
 224 regulations, and fire safety standards issued before April 1, 1968; and power of local
 225 governing authorities;

226 (4) Code Section 31-41-3, relating to definitions relative to lead poisoning prevention;

227 (5) Code Section 33-2-8.1, relating to purpose of Code section; preparation by
 228 Commissioner of supplemental report on property and casualty insurance; contents of
 229 report; and request for information;

230 (6) Code Section 42-1-17, relating to definitions; residency restrictions for sexual
 231 offenders; and penalties;

232 (7) Code Section 45-18-70, relating to the establishment and operation of a Capitol Hill
 233 day-care center; and

234 (8) Code Section 49-5-13, relating to private day-care centers not required to meet federal
 235 adult-child ratio.

236

SECTION 13.

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