

Annotated Mississippi Code _Title 43. Public Welfare _Chapter 20. Child Care Facilities _Mississippi
Child Care Licensing Law

Miss. Code Ann. § 43-20-1

§ 43-20-1. Short title

This chapter shall be cited as the “Mississippi Child Care Licensing Law.”

Miss. Code Ann. § 43-20-3

§ 43-20-3. Statement of purpose

The purpose of this chapter is to protect and promote the health and safety of the children of this state by providing for the licensing of child care facilities as defined herein so as to assure that certain minimum standards are maintained in such facilities. This policy is predicated upon the fact that a child is not capable of protecting himself, and when his parents for any reason have relinquished his care to others, there arises the probability of exposure of that child to certain risks to his health and safety which require the offsetting statutory protection of licensing

Miss. Code Ann. § 43-20-5

§ 43-20-5. Definitions

When used in this chapter, the following words shall have the following meanings:

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

(i) Child care facilities that operate for no more than two (2) days a week, whose primary purpose is to provide respite for the caregiver or temporary care during other scheduled or related activities and organized programs that operate for three (3) or fewer weeks per year such as, but not limited to, Vacation Bible Schools and scout day camps.

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

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

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2. Accreditation, for the purpose of exemption from the provisions of this chapter, means: a. receipt by any school or school system of full accreditation from an accrediting entity listed in item 1 of this subparagraph (iii), or b. proof of application by the school or school system for accreditation status from the accrediting entity. Proof of application for accreditation status shall include, but not be limited to, a copy of the applicant's completed application for accreditation filed with the licensing agency and a letter or other authenticating documentation from a signatory authority with the accrediting entity that the application for accreditation has been received and that the applicant is currently under consideration or review for full accreditation status by the accrediting entity. An exemption for a nonaccredited applicant under this item 2 shall be for a maximum of one (1) year from the receipt date by the licensing agency of the completed documentation for proof of application for accreditation status. Failure to receive full accreditation by the end of the one-year exemption period for a nonaccredited applicant shall result in the nonaccredited applicant no longer remaining exempt from the provisions of this chapter at the end of the one-year period. However, if full accreditation is not received by the end of the one-year exemption period, the State Board of Health, in its discretion, may extend the exemption period for any nonaccredited applicant for periods of six (6) months, with the total extension not to exceed one (1) year. During any such extension periods, the board shall have the authority to enforce child care facility licensure provisions relating to the health and safety of the children in the school or school system. If a nonaccredited applicant fails to receive full accreditation by the end of all extended exemption periods, the applicant shall no longer remain exempt from the provisions of this chapter at the end of the extended exemption periods.

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

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

All other preschool child care programs and/or extended day school programs must meet requirements set forth in this chapter. Any entity exempt from the requirements to be licensed but voluntarily chooses to obtain a license is subject to all provisions of this chapter.

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

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

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

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

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

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(g) “Licensing agency” means the Mississippi State Department of Health.

(h) “Caregiver” means any person who provides direct care, supervision or guidance to children in a child care facility, regardless of title or occupation.

Miss. Code Ann. § 43-20-7

§ 43-20-7. Advisory council; creation, role, mileage and expense reimbursement

(1) There is hereby created an advisory council which shall be appointed by the State Health Officer, who shall serve at the pleasure of the State Health Officer.

(2) The advisory council shall consist of twelve (12) persons, six (6) of whom shall be licensed child care providers, and six (6) of whom shall represent child care professional organizations, child advocacy groups, child care associations or state agencies which provide child care funding, education or services. No more than four (4) members shall be appointed from any one (1) state Supreme Court district.

(3) It shall be the duty of the advisory council to assist and advise the licensing agency in the development of regulations governing the licensure and regulation of child care facilities and to advise the licensing agency on matters relative to the administration and interpretation of the provisions of this chapter.

(4) Members of the advisory council shall be reimbursed for mileage and expenses as is authorized by law.

Miss. Code Ann. § 43-20-8

§ 43-20-8. Duties of licensing agency, child care facilities

(1) The licensing agency shall have powers and duties as set forth below, in addition to other duties prescribed under this chapter:

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

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

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

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

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

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comply with the provisions of Chapter 520, Laws of 2006.

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

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

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

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

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

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

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

Miss. Code Ann. § 43-20-9

§ 43-20-9. Requirement of license

From and after August 1, 1972, no person acting individually or jointly with another person or persons shall

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establish, own, operate, conduct or maintain a child care facility in this state without a license issued under this chapter.

Miss. Code Ann. § 43-20-11

§ 43-20-11. Application process; terms of license

An application for a license under this chapter shall be made to the licensing agency upon forms provided by it, and shall contain such information as the licensing agency may reasonably require. Each application for a license shall be accompanied by a license fee not to exceed Four Hundred Dollars (\$400.00), which shall be paid to the licensing agency. Licenses shall be granted to applicants upon the filing of properly completed application forms, accompanied by payment of the said license fee, and a certificate of inspection and approval by the fire department of the municipality or other political subdivision in which the facility is located, and by a certificate of inspection and approval by the health department of the county in which the facility is located, and approval by the licensing agency; except that if no fire department exists where the facility is located, the State Fire Marshal shall certify as to the inspection for safety from fire hazards. Said fire, county health department and licensing agency inspections and approvals shall be based upon regulations promulgated by the licensing agency as approved by the State Board of Health.

Each license shall be issued only for the premises and person or persons named in the application and shall not be transferable or assignable except with the written approval of the licensing agency. Licenses shall be posted in a conspicuous place on the licensed premises.

No governmental entity or agency shall be required to pay the fee or fees set forth in this section.

Miss. Code Ann. § 43-20-12

§ 43-20-12. Special fund for fees, penalties

All fees collected by the State Board of Health under this chapter and any penalties collected by the board for violations of this chapter shall be deposited in a special fund hereby created in the State Treasury and shall be used for the implementation and administration of this chapter when appropriated by the Legislature for such purpose.

Miss. Code Ann. § 43-20-13

§ 43-20-13. Renewal

A license issued under the provisions of this chapter shall be renewed upon payment of a renewal fee not to exceed Four Hundred Dollars (\$400.00) per year and upon filing by the licensee of a report upon such uniform dates and upon forms provided by the licensing agency, accompanied by a current certificate of inspection and approval by the fire department and the county health department specified in Section 43-20-11.

No governmental entity or agency shall be required to pay the fee or fees set forth in this section.

Miss. Code Ann. § 43-20-14

§ 43-20-14. Denial and disciplinary procedures

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- (1) The licensing agency may deny a license or refuse to renew a license for any of the reasons set forth in subsection (3) of this section.
- (2) Before the licensing agency may deny or refuse to renew, the applicant or person named on the license shall be entitled to a hearing in order to show cause why the license should not be denied or should be renewed.
- (3) The licensing agency may suspend, revoke or restrict the license of any child-care facility upon one or more of the following grounds:
 - (a) Fraud, misrepresentation or concealment of material facts;
 - (b) Conviction of an operator for any crime if the licensing agency finds that the act or acts for which the operator was convicted could have a detrimental effect on children cared for by any child-care facility;
 - (c) Violation of any of the provisions of this chapter or of the regulations governing the licensing and regulation of child-care facilities promulgated by the licensing agency;
 - (d) Any conduct, or failure to act, that is found or determined by the licensing agency to threaten the health or safety of children at the facility;
 - (e) Failure by the child-care facility to comply with the provisions of Section 43-20-8(3) regarding background checks of caregivers; and
 - (f) Information received by the licensing agency as a result of the criminal records background check and the child abuse registry check on all operators under Section 43-20-8.
- (4) Before the licensing agency may suspend, revoke or restrict the license of any facility, any licensee affected by that decision of the licensing agency shall be entitled to a hearing in which the licensee may show cause why the license should not be suspended, revoked or restricted.
- (5) Any licensee who disagrees with or is aggrieved by a decision of the Mississippi State Department of Health in regard to the denial, refusal to renew, suspension, revocation or restriction of the license of the licensee, may appeal to the chancery court of the county in which the facility is located. The appeal shall be filed no later than thirty (30) days after the licensee receives written notice of the final administrative action by the Mississippi State Department of Health as to the suspension, revocation or restriction of the license of the licensee.

Miss. Code Ann. § 43-20-15

§ 43-20-15. Annual inspections

The licensing agency shall make or cause to be made inspections relative to compliance with the laws and regulations governing the licensure of child care facilities. Such inspections shall be made at least once a year but

additional inspections may be made as often as deemed necessary by the licensing agency.

Miss. Code Ann. § 43-20-17

§ 43-20-17. Confidentiality

Information in the possession of the licensing agency concerning the license of individual child care facilities may be disclosed to the public, except such information shall not be disclosed in such manner as to identify children or families of children cared for at a child care facility. Nothing in this section shall affect the agency's authority to release findings of investigations into allegations of abuse pursuant to either Section 43-21-353(8) or Section 43-21-257.

Miss. Code Ann. § 43-20-19

§ 43-20-19. Sanctions

Any person establishing, conducting, managing or operating a child care facility without a license under this chapter after August 1, 1972, shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than One Hundred Dollars (\$100.00) for the first offense, and not more than Two Hundred Dollars (\$200.00) for each subsequent offense.

Miss. Code Ann. § 43-20-21

§ 43-20-21. Equitable relief

Notwithstanding the existence of any other remedy, the licensing agency may, in the manner provided by law, in termtime or in vacation, upon the advice of the Attorney General who, except as otherwise authorized in Section 7-5-39, shall represent the licensing agency in the proceedings, maintain an action in the name of the state for an injunction or other proper remedy against any person to restrain or prevent the establishment, conduct, management or operation of a child care facility without license under this chapter, or otherwise in violation of this chapter.

Miss. Code Ann. § 43-20-31

§ 43-20-31. Regulations for accommodating breast-feeding

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The Department of Health shall promulgate regulations to ensure that licensed child care facilities shall be required to comply with the following:

(a) Breast-feeding mothers, including employees, shall be provided a sanitary place that is not a toilet stall to breast-feed their children or express milk. This area shall provide an electrical outlet, comfortable chair, and nearby access to running water.

(b) A refrigerator will be made available for storage of expressed breast milk following guidelines from the American Academy of Pediatrics and Centers for Disease Control in ensuring that breast milk is properly treated to avoid waste. Universal precautions are not required in handling human milk.

(c) Staff shall be trained in the safe and proper storage and handling of human milk.

(d) Breast-feeding promotion information will be displayed in order to positively promote breast-feeding to the clients of the facility.

(e) Such other requirements as the Board of Health finds desirable or necessary to promote and protect breast-feeding.

Miss. Code Ann. § 43-20-51

§ 43-20-51. Declaration of purpose

The purpose of Sections 43-20-51 through 43-20-65 is to protect and promote the health and safety of children of this state who are cared for in family child care homes which are not required to be licensed by the state, by allowing for a voluntary registration of such homes, establishing of standards for such homes and child care providers and allowing for periodic routine inspection and mandatory inspections when warranted by complaints.

Miss. Code Ann. § 43-20-53

§ 43-20-53. Definitions

As used in Sections 43-20-51 through 43-20-65:

(a) "Family child care home" means any residential facility occupied by the operator where five (5) or fewer children who are not related within the third degree computed according to the civil law to the provider and who are under the age of thirteen (13) years of age are provided care for any part of the 24-hour day.

(b) "Registering agency" means the Mississippi State Department of Health.

(c) "Provider" means the person responsible for the care of children.

Miss. Code Ann. § 43-20-55

§ 43-20-55. Regulations and standards; compensating council members

The advisory council appointed by the Executive Officer of the State Department of Health under the provisions of Section 43-20-7, Mississippi Code of 1972, shall assist and advise in the development of regulations and standards governing the registration and regulation of family child care homes. Members of the council who are not public employees shall receive per diem compensation as provided under Section 25-3-69, Mississippi Code of 1972, and shall be reimbursed for mileage and expenses.

Miss. Code Ann. § 43-20-57

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§ 43-20-57. Disqualification; civil immunity

(1) No person shall knowingly maintain a family child care home if, in such family child care home, there resides, works or regularly volunteers any person who:

(a)(i) Has a felony conviction for a crime against persons;

(ii) Has a felony conviction under the Uniform Controlled Substances Act;

(iii) Has a conviction for a crime of child abuse or neglect;

(iv) Has a conviction for any sex offense as defined in Section 45-33-23, Mississippi Code of 1972; or

(v) Any other offense committed in another jurisdiction or any federal offense which, if committed in this state, would be deemed to be such a crime without regard to its designation elsewhere;

(b) Has been adjudicated a juvenile offender because of having committed an act which if done by an adult would constitute the commission of a felony and which is a crime against persons;

(c) Has had a child declared in a court order in this or any other state to be deprived or a child in need of care based on an allegation of physical, mental or emotional abuse or neglect or sexual abuse;

(d) Has had parental rights terminated pursuant to Section 93-15-101 et seq., Mississippi Code of 1972; or

(e) Has an infectious or contagious disease, as defined by the State Department of Health pursuant to Section 41-23-1, Mississippi Code of 1972.

(2) No person shall maintain a family child care home if such person has been found to be a disabled person in need of a guardian or conservator, or both.

(3) Any person who resides in the home and who has been found to be a disabled person in need of a guardian or conservator, or both, shall be included in the total number of children allowed in care.

(4) In accordance with the provision of this subsection (4), the State Department of Health shall have access to any court orders or adjudications of any court of record, any records of such orders or adjudications, criminal history record information in the possession of the Mississippi Highway Safety Patrol or court of this state concerning persons working, regularly volunteering or residing in a family child care home. The department shall have access to these records for the purpose of determining whether or not the home meets the requirements of Sections 43-20-51 through 43-20-65.

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(5) No family child care home or its employees shall be liable for civil damages to any person refused employment or discharged from employment by reason of such home's compliance with the provisions of this section if such home acts in good faith to comply with this section.

Miss. Code Ann. § 43-20-59

§ 43-20-59. Registration process

(1) Any person maintaining a family child care home may register such home with the State Department of Health on forms provided by the department.

(2) A certificate of registration shall be issued to the applicant for registration who (a) attests to the safety of the home for the care of children, (b) submits a fee of Five Dollars (\$5.00) payable to the department, and (c) certifies that no person described in paragraphs (a), (b), (c), (d) or (e) of Section 43-20-57(1) resides, works or volunteers in the family child care home.

(3) The department shall furnish each applicant for registration a family child care home safety evaluation form to be completed by the applicant and submitted with the registration application.

(4) The certificate of registration shall be renewed annually in the same manner provided for in this section.

(5) A certificate of registration shall be in force for one (1) year after the date of issuance unless revoked pursuant to Sections 43-20-51 through 43-20-65. The certificate shall specify that the registrant may operate a family child care home for five (5) or fewer children. This section shall not be construed to limit the right of the department to enter a registered family child care home for the purpose of assessing compliance with Sections 43-20-51 through 43-20-65 after receiving a complaint against the registrant of such home or in conducting a periodic routine inspection.

(6) The department shall adopt rules and regulations to implement the registration provisions.

Miss. Code Ann. § 43-20-61

§ 43-20-61. Denial, revocation, refusal to renew

The department may deny, revoke or refuse to renew a certificate of registration upon determination that the registrant falsified information on the application or willfully and substantially has violated Sections 43-20-51 through 43-20-65, inclusive and amendments thereto. The department shall not revoke or refuse to renew any certificate without giving notice and conducting a hearing.

Miss. Code Ann. § 43-20-63

§ 43-20-63. Grounds for suspension

The department may suspend any certificate of registration issued under the provision of Sections 43-20-51 through
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43-20-65 upon any of the following grounds and in the manner provided in Sections 43-20-51 through 43-20-65:

- (a) Violation by the registrant of any provision of Sections 43-20-51 through 43-20-65 or of the rules and regulations promulgated under Sections 43-20-51 through 43-20-65;
- (b) Aiding, abetting or permitting the violation of any provision of Sections 43-20-51 through 43-20-65 or of the rules and regulations promulgated under Sections 43-20-51 through 43-20-65;
- (c) Conduct in the operation or maintenance, or both the operation and maintenance of a family child care home which is inimical to health, morals, welfare or safety of either an individual in or receiving services from the home or the people of this state; and
- (d) The conviction of a registrant at any time during registration of any crime under state or federal law.

The department may suspend any certificate of registration issued under the provisions of Sections 43-20-51 through 43-20-65 prior to any hearing when, in the opinion of the department, the action is necessary to protect any child in the family child care home from physical or mental abuse, abandonment or any other substantial threat to health or safety.

Miss. Code Ann. § 43-20-65

§ 43-20-65. Confidentiality

Information received by the licensing agency through filed reports, inspections or otherwise authorized under Sections 43-20-51 through 43-20-65 shall not be disclosed publicly in such manner as to identify individuals. In any hearings conducted under regulation provisions of Sections 43-20-51 through 43-20-65, the hearing officer may close the hearing to the public to prevent public disclosure of matters relating to individuals restricted by other law.

Miss. Code Ann. § 43-20-81

§ 43-20-81. Child care facilities; provision of flu information to parents and guardians

(1) Each licensed child care facility shall, by October 1 of every year, provide each child's parent or legal guardian with information relative to the risks associated with influenza and the availability, effectiveness and modes of administration of influenza vaccines. That information shall be updated annually to include new information and shall include the following:

- (a) The causes and symptoms of influenza and means by which influenza is transmitted;
- (b) The infection rates of influenza in children;
- (c) Information about the U.S. Centers for Disease Control and Prevention's (CDC) recommendations for routine, seasonal vaccination of all children aged six (6) months through eighteen (18) years; and
- (d) Sources in which a parent or legal guardian may obtain additional information and where a child may be immunized against influenza.

(2) The State Department of Health shall develop information on influenza immunization and provide that

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information to each licensed child care facility, which shall provide the information to each child's parent or legal guardian as required by subsection (1) of this section.

(3) The department shall determine the most cost-effective and efficient means of distributing the information. The department may work with public health organizations and vaccine stakeholders in developing and distributing the information.

(4) Nothing in this section shall be construed to require any licensed child care facility to provide or pay for immunizations against influenza. However, if a licensed child care facility requests assistance in providing influenza vaccine on site to children in accordance with their parent or legal guardian's approval, the department shall work with the licensed child care facility to provide advice and influenza vaccine for children who qualify for the vaccine through the federal Vaccines for Children (VFC) program.

(5) The State Board of Health shall establish by rules and regulations all guidelines and procedures for carrying out the provisions of this section.