

1 SB248
2 217435-1
3 By Senators Roberts and Waggoner
4 RFD: Children, Youth and Human Services
5 First Read: 22-FEB-22

8 SYNOPSIS: Existing law provides for the licensure and
9 regulation of child-care facilities by the
10 Department of Human Resources. This bill would
11 revise defined terms.

12 This bill would require changes to existing
13 rules of the department by revising requirements
14 for child-care facility operators pertaining to
15 advertising, employment qualification standards,
16 recordkeeping standards, and data reporting
17 standards for child-care facilities.

18 Existing law provides that only one criminal
19 history background information check is required on
20 an individual regardless of subsequent changes in
21 employment or licensing or approval status.

22 This bill would provide that criminal
23 history background checks and suitability
24 determination letters from the Department of Human
25 Resources for applicants, volunteers, or employees
26 of a day care center are valid for five years,
27 except that a new criminal investigation conducted

1 after the check is completed or the suitability
2 determination letter is issued shall cause the
3 check and the suitability determination letter to
4 become invalid.

5 This bill would allow employees of
6 child-care facilities to work extended shifts and
7 would provide that evidence of certain criminal
8 activities may not be considered against applicants
9 for a license to operate a child-care facility or
10 an applicant for employment at a child-care
11 facility if a specified amount of time has elapsed
12 since the criminal activities took place.

13 This bill would require the Department of
14 Human Resources to adopt rules pertaining to
15 minimum standards for child-care facilities.

16 This bill would also require the Department
17 of Human Resources to adopt additional rules to
18 implement and enforce its provisions.

19
20 A BILL
21 TO BE ENTITLED
22 AN ACT
23

24 Relating to child-care facilities; to amend Section
25 38-7-2, Code of Alabama 1975, as amended by Act 2021-225, 2021
26 Regular Session, and Sections 38-7-3, 38-7-5, 38-7-7, 38-7-12,
27 38-7-13, 38-7-14, 38-7-20, and 38-13-4, Code of Alabama 1975;

1 to add Section 38-7-22 to the Code of Alabama 1975; to revise
2 defined terms; to require the Department of Human Resources to
3 revise certain existing requirements for child-care facility
4 operators pertaining to advertising and licensure; to revise
5 certain employment qualification standards, recordkeeping
6 standards, and data reporting standards for child-care
7 facilities; to allow employees of child-care facilities to
8 work extended shifts; to provide further for the requirement
9 to receive a criminal history background check as a condition
10 of employment with certain child-care and adult care
11 facilities; to further provide for the issuance of a
12 suitability determination letter; to require the Department of
13 Human Resources to adopt certain rules; and to require the
14 Department of Human Resources to adopt additional rules to
15 implement and enforce its provisions.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Section 38-7-2, Code of Alabama 1975, as
18 amended by Act 2021-225, 2021 Regular Session, and Sections
19 38-7-3, 38-7-5, 38-7-7, 38-7-12, 38-7-13, 38-7-14, 38-7-20,
20 and 38-13-4, Code of Alabama 1975, are amended to read as
21 follows:

22 "§38-7-2.

23 "Terms used in this chapter, unless the context
24 otherwise requires, have the meanings ascribed to them in this
25 section. When not inconsistent with the context, words used in
26 the present tense include the future, words in the singular
27 number include the plural number, and words in the plural

1 number include the singular number, and the word "shall" is
2 always mandatory and not merely directory:

3 "(1) CHILD. Any person under 19 years of age, a
4 person under the continuing jurisdiction of the juvenile court
5 pursuant to Section 12-15-117, or a person under 21 years of
6 age in foster care as defined by the Department of Human
7 Resources.

8 "(2) CHILD-CARE INSTITUTION or INSTITUTION FOR CHILD
9 CARE. A child-care facility where more than 10 children are
10 received and maintained for the purpose of providing them with
11 care or training or both, or transitional living program
12 services, but does not include:

13 "a. Any institution for child care which is under
14 the ownership or control, or both, of the State of Alabama, or
15 which is operated or certified or licensed by another agency
16 or department of the State of Alabama;

17 "b. Any juvenile detention home established and
18 operated by the State of Alabama;

19 "c. Any bona fide boarding school in which children
20 are primarily taught branches of education corresponding to
21 those taught in public schools, grades 1 through 12, or taught
22 in public elementary schools, high schools, or both elementary
23 and high schools.

24 "(3) CHILD-PLACING AGENCY. A public or private
25 child-care facility which receives, places, or arranges for
26 the placement of any child or children in adoptive or foster
27 family homes or other facilities for child care apart from the

1 custody of the child's or children's parents. The term
2 includes, but is not limited to, all agencies established and
3 maintained by a municipality or other political subdivision of
4 the State of Alabama to protect, guard, train, or care for
5 children outside their own homes, but does not include any
6 circuit court or juvenile court or any duly appointed juvenile
7 probation officer or youth counselor of the court who receives
8 and places children under an order of the court.

9 "(4) DAY CARE CENTER. Any child-care facility
10 receiving more than 12 children for daytime care during all or
11 part of a day. The term includes, but is not limited to,
12 facilities commonly called "child-care centers," "day
13 nurseries," "nursery schools," "pre-kindergartens,"
14 "preschools," "kindergartens," and "play groups," with or
15 without stated educational purposes. The term further
16 includes, but is not limited to, pre-kindergarten, preschool,
17 kindergarten, or nursery schools or other daytime programs
18 operated as a part of a private school and receiving children
19 younger than lawful school age for daytime care for more than
20 four hours a day, with or without stated educational purposes.
21 The term does not include any of the following:

22 "a. Kindergartens or nursery schools or other
23 daytime programs operated by public elementary systems or
24 secondary level school units or institutions of higher
25 learning.

26 "b. Kindergartens or nursery schools or other
27 daytime programs, with or without stated educational purposes,

1 operating no more than four hours a day and receiving children
2 younger than lawful school age.

3 "c. Kindergartens or nursery schools or other
4 daytime programs operated as a part of a private school and
5 receiving children younger than lawful school age for four
6 hours a day or less, with or without stated educational
7 purposes.

8 "d. Facilities operated for more than four hours a
9 day in connection with a shopping center or service or other
10 similar facility, where transient children are cared for
11 temporarily while parents or custodians of the children are
12 occupied on the premises or are in the immediate vicinity and
13 readily available. The facilities shall meet local and state
14 fire and health requirements.

15 "e. Any type of day care center that is conducted on
16 federal government premises.

17 "f. Special activities programs for children of
18 lawful school age including, but not limited to, athletics,
19 crafts instruction, and similar activities conducted on an
20 organized and periodic basis by civic, charitable, and
21 governmental organizations, provided local and state fire and
22 health requirements are met.

23 "(5) DAY CARE HOME. A child-care facility which is a
24 family home and which receives not more than six children for
25 care during the day.

26 "(6) DEPARTMENT. The Department of Human Resources
27 of the State of Alabama.

1 "(7) EMPLOYEE. An individual currently in the
2 service of an employer for compensation, full-time or
3 part-time, and employed by contract or at will, in which the
4 employer has the authority to control the individual in the
5 material details of how work shall be performed and when
6 compensation shall be provided.

7 "(8) EMPLOYER. An individual, person, group of
8 persons, association, partnership, corporation, limited
9 liability company or partnership, business, or other entity
10 that hires employees, has volunteers, or contracts with others
11 to provide personnel to work with or provide care to children
12 in a caretaker setting.

13 "~~(7)~~(9) FACILITY FOR CHILD CARE or CHILD-CARE
14 FACILITY. A facility established by any person, group of
15 persons, agency, association, or organization, whether
16 established for gain or otherwise, who or which receives or
17 arranges for care or placement of one or more children,
18 unrelated to the operator of the facility, apart from the
19 parents, with or without the transfer of the right of custody,
20 in any facility as defined in this chapter, established and
21 maintained for the care of children.

22 "~~(8)~~(10) FOSTER FAMILY HOME. A child-care facility
23 in a residence of a family where the family receives a child
24 or children, whether related or not related to the family as
25 the term "related" is defined in this section, for the purpose
26 of providing family care or therapeutic family care and
27 training, or transitional living program services on a

1 full-time basis. The types of foster family homes are defined
2 as follows:

3 "a. Traditional foster family home. A child_care
4 facility in a residence of a family where the family receives
5 a child or children, not related to that family as that term
6 is defined in Section 12-15-301(14), for the purpose of
7 providing family care and training on a full-time basis.

8 "b. Related foster family home. A foster family home
9 wherein the family is related to the child by blood, marriage,
10 or adoption within the fourth degree of kinship, including
11 only a brother, sister, uncle, aunt, first cousin,
12 grandparent, great-grandparent, great aunt, great uncle,
13 great-great_grandparent, niece, nephew, grandniece,
14 grandnephew, or a stepparent.

15 "c. Free home. A foster family home, whether related
16 or not related as defined in Section 12-15-301(14), which does
17 not receive payment for the care of a child or children and
18 which may or may not receive the child or children for the
19 purpose of adoption.

20 "d. Therapeutic foster family home. A child_care
21 facility in a residence of a family where the family receives
22 a child or children for the purpose of providing therapeutic
23 family care and training on a full-time basis.

24 "~~(9)~~(11) GROUP DAY CARE HOME. A child-care facility
25 which is a family home and which receives at least seven but
26 no more than 12 children for care during part of the day where

1 there are at least two adults present and supervising the
2 activities.

3 "~~(10)~~ (12) GROUP HOME. A child-care facility where at
4 least seven but not more than 10 children are received and
5 maintained for the purpose of providing them with care or
6 training, or both, or transitional living program services.

7 "~~(11)~~ (13) MATERNITY CENTER. A facility in which any
8 person, agency, or corporation receives or cares for one or
9 more minor pregnant girls, except that the term does not
10 include hospitals.

11 "~~(12)~~ (14) NIGHT CARE FACILITY. A child-care facility
12 which is a center or a family home receiving a child or
13 children for care during the night. The term includes the
14 following:

15 "a. Nighttime center. A facility which is
16 established to receive more than 12 children for nighttime
17 care.

18 "b. Nighttime home. A family home which receives no
19 more than six children for nighttime care.

20 "c. Group nighttime home. A child-care facility
21 which is a family home which receives at least seven but no
22 more than 12 children for nighttime care and where there are
23 at least two adults present and supervising the activities.

24 "~~(13)~~ (15) RELATED. Any of the following
25 relationships by blood, marriage, or adoption: Parent,
26 grandparent, brother, sister, stepparent, stepbrother,

1 stepsister, half brother, half sister, uncle or aunt, and
2 their spouses.

3 ~~"(14)~~ (16) TRANSITIONAL LIVING FACILITY. A child-care
4 facility or program that is designed to give opportunities to
5 practice independent living skills to eligible persons at
6 least 16 years of age and under 21 years of age in foster care
7 in a variety of residential settings with varying degrees of
8 care and supervision.

9 "§38-7-3.

10 "(a) No person, group of persons, or corporation may
11 operate or conduct any facility for child care, as defined in
12 this chapter, without being licensed or approved as provided
13 in this chapter.

14 "(b) (1) Except as provided in subdivision (2), the
15 licensure requirements of this chapter do not apply to a
16 child-care facility that is operating as an integral part of a
17 local church ministry or a religious nonprofit school, and is
18 so recognized in the church or school's documents, whether
19 operated separately or as a part of a religious nonprofit
20 school unit, secondary school unit, or institution of higher
21 learning under the governing board or authority of the local
22 church or its convention, association, or regional body to
23 which it may be subject.

24 "(2) A child-care facility that receives state or
25 federal funds or is operating for profit is not exempt from
26 licensure under this subsection.

1 "(c) A child-care facility exempt from licensure
2 under subsection (b) shall do all of the following to maintain
3 its license exempt status:

4 "(1) Provide notice of operation on an annual basis
5 to the appropriate fire and health departments so that the
6 facility may be inspected in accordance with the state and
7 local fire and health requirements, provided the facility
8 shall be inspected at least annually by the appropriate fire
9 department and the appropriate health department.

10 "(2) Provide to the department on or before October
11 1, 2018, and annually thereafter, the following records and
12 certify that the records are being maintained by the church or
13 school:

14 "a. Documentation indicating the child-care facility
15 is in compliance with fire inspections and health inspections.

16 "b. Employee names and their criminal history
17 information pursuant to Section 38-13-3.

18 "c. Proof of property, casualty, and liability
19 insurance, as prescribed by the department.

20 "(3) Provide to the department, upon request,
21 immunization verifications for all children and medical
22 history forms for all staff and children, and certify that the
23 records are being maintained by the church or school.

24 "(4) Provide the department within 30 days of any
25 updated fire inspection report, health inspection report, new
26 criminal background check suitability letter, or receipt of

1 updated insurance information as required under subdivision
2 (2).

3 "(5) Provide notice to parents or guardians of all
4 of the following information prior to enrollment of a child in
5 the child-care facility:

6 "a. Staff qualifications.

7 "b. Pupil-staff ratio.

8 "c. Discipline policies.

9 "d. The type of curriculum used in the learning
10 program.

11 "e. The religious teachings to be given each child.

12 "f. The type of lunch program available.

13 "(6) Post in plain view in a public area a statement
14 that the program is not regulated or licensed by the
15 Department of Human Resources.

16 "(7) Require a parent or guardian to sign an
17 affidavit stating that the parent or guardian has been
18 notified by the responsible individual of the church or school
19 that the child-care facility has filed notice to the
20 department and is exempt from licensure and regulation by the
21 department. The child-care facility shall file the affidavits
22 annually with the department. The affidavit shall be
23 substantially in the following form:

24 "Form of Affidavit for Parent/Guardian

25 "STATE OF ALABAMA

26 "COUNTY OF _____

1 "Before me, a notary public in and for said state
2 and county, appeared _____ and is known to me, after being
3 duly sworn or affirmed, says as follows:

4 "That affiant is the parent or legal guardian of the
5 minor child/children _____; that affiant has been notified by
6 _____, a representative of _____ church/school, that said
7 church or school has filed notice and is exempt under law from
8 regulation by the Department of Human Resources.

9 "_____ Parent/Legal Guardian

10 "Sworn, or affirmed to and subscribed before me this
11 _____ day of _____, 20__.

12 "(8) A responsible individual of the child-care
13 facility shall file an affidavit annually with the department
14 certifying that it has satisfied all of the requirements of
15 this section. The affidavit shall be substantially in the
16 following form:

17 "Form of Affidavit for Church/School

18 "STATE OF ALABAMA

19 "COUNTY OF _____

20 "Before me, a notary public in and for said state
21 and county, appeared _____ and is known to me, after being
22 duly sworn or affirmed says as follows:

23 "That affiant is the designated representative of
24 _____ church/school and that the below listed
25 parents/guardians have been notified prior to
26 enrollment/reenrollment that _____ church/school has filed

1 notice with and is exempt under law from regulation by the
2 Department of Human Resources: _____

3 " _____ Representative

4 "The affiant certifies that the child-care facility
5 does not receive state or federal funds and, that to the best
6 of the affiant's knowledge, no child enrolled in the program
7 receives a child-care subsidy from the Department of Human
8 Resources; the facility is in compliance with all applicable
9 building, fire, and health codes; the facility has provided
10 the information requested under Section 38-7-3, Code of
11 Alabama 1975, to all parents or guardians of children enrolled
12 in the facility; and the facility has posted notice in plain
13 view in a public area stating that the child-care facility is
14 not licensed or regulated by the Department of Human
15 Resources.

16 "Sworn or affirmed to and subscribed before me this
17 ____ day of _____, 20__.

18 " _____ Notary Public

19 "(d) (1) On and after March 21, 2018, any church or
20 nonprofit religious school intending to operate a new
21 child-care facility in the state shall notify the department
22 at least 30 days prior to operating, and the department shall
23 inspect the facility and ensure compliance with this section
24 before the facility may begin operating.

25 "(2) The department shall inspect any child-care
26 facility that is exempt from licensure under subsection (b) at
27 any time if it has reasonable cause to believe the facility is

1 not in compliance with this section or the safety of a child
2 is at risk. If the department finds there exists a situation
3 that may put the safety of a child at risk, the department may
4 refer to the fire or health department or to the local
5 district attorney for the proper remedy or action.

6 "(e) The district attorney of the county in which a
7 child-care facility that is exempt from licensure under
8 subsection (b) is located, upon presentment of charges, shall
9 investigate at his or her discretion, any allegations against
10 the church or nonprofit religious school operating the
11 facility under the laws of the state.

12 "(f) The department, upon request, shall provide any
13 documentation necessary to confirm any of the information
14 relevant to a determination of whether a child-care facility
15 is exempt under subsection (b) to the district attorney.

16 "(g) Any child-care facility that is exempt from
17 licensure under subsection (b), upon request by the
18 department, shall provide the department with any information
19 listed in subsection (c) within 15 days.

20 "(h) Nothing in this section or in this chapter
21 prohibits an employee of the department from carrying out the
22 duties of the department as prescribed in this title.

23 ~~"(i) Nothing in this section or in this chapter~~
24 ~~infringes upon the religious teaching or practices of a~~
25 ~~licensed faith-based child-care facility. The right of a~~
26 ~~faith-based child-care facility to teach faith-based lessons~~

1 or require the use of curriculum materials of a faith-based
2 nature shall not be infringed.

3 "(j) A child-care facility that is an integral part
4 of a church or nonprofit religious school, other than a
5 child-care facility exempt from licensure under subsection
6 (b), shall be licensed in accordance with this chapter no
7 later than August 1, 2019.

8 "§38-7-5.

9 "(a) Licenses or approvals shall be issued in such
10 form and manner as prescribed by the department and are valid
11 for ~~two~~ three years from the date issued, unless revoked by
12 the department or voluntarily surrendered by the licensee, or
13 by the child-care facility designated on the notice of
14 approval, provided, that the following occur:

15 "(1) Licenses or approvals for boarding homes are
16 valid for one year from the date of issuance, unless revoked
17 by the department, or by the licensed child-placing agency
18 which issued the approval, or unless voluntarily surrendered
19 by the licensee or by the child-care facility designated on
20 the notice of approval.

21 "(2) Approvals for free homes shall continue in
22 effect until notice of disapproval is given by the department,
23 or by the licensed child-placing agency which issued the
24 approval, or until the child-care facility designated on the
25 notice of approval voluntarily withdraws.

26 "(b) The department may issue a six-month permit to
27 a facility for child care to allow such facility reasonable

1 time to become eligible for a full license; provided, however,
2 that no such six-month permit shall be issued to a foster
3 family home.

4 "(c) Notwithstanding any other provision of law to
5 the contrary, when a child is taken into the department's
6 foster care or custody on an emergency basis, or when there is
7 a disruption or imminent disruption in a current foster care
8 placement requiring placement elsewhere, and a prospective
9 foster home is available, the department or licensed
10 child-placing agency may conduct a preliminary inspection of
11 the home and issue a provisional approval of the home. The
12 provisional approval shall continue in effect for no more than
13 six months and is nonrenewable. A provisional approval may be
14 denied or revoked by the department at any time for failure to
15 meet minimum standards set by the department or for any reason
16 set forth in Section 38-7-8.

17 "(d) Prior to the emergency licensing of foster
18 homes, the department shall adhere to the settlement agreement
19 reached in the R.C. v. Nachman lawsuit relating to
20 preferential treatment for family members concerning the
21 placement of children.

22 "§38-7-7.

23 "(a) The department shall prescribe and publish
24 minimum standards for licensing and for approving all
25 child-care facilities, as defined in this chapter. In
26 establishing such standards the department shall seek the
27 advice and assistance of persons representative of the various

1 types of child-care facilities. The standards prescribed and
2 published under this chapter shall include ~~regulations~~ rules
3 pertaining to all of the following:

4 "(1) The operation and conduct of the child-care
5 facility and the responsibility it assumes for child care~~7.~~.

6 "(2) The character, suitability and qualifications
7 of the applicant and other persons directly responsible for
8 the care and welfare of children served~~7.~~.

9 "(3) The general financial ability and competence of
10 the applicant to provide necessary care for children and to
11 maintain prescribed standards~~7.~~.

12 "(4) The number of individuals or staff required to
13 insure adequate supervision and care of the children served~~7.~~.

14 "(5) The appropriateness, safety, cleanliness and
15 general adequacy of the premises, including maintenance of
16 adequate fire prevention and health standards conforming to
17 state laws and municipal codes to provide for the physical
18 comfort, care, well-being and safety of children served~~7.~~.

19 "(6) Provisions for food, clothing, educational
20 opportunities, program equipment ~~and,~~ individual supplies, and
21 suggestions to periodically update outdated or obsolete
22 equipment and supplies, to assure the healthy physical and
23 mental development of children served, consistent with the
24 definitions contained in this chapter~~7.~~.

25 "(7) Maintenance of records pertaining to the
26 admission, progress, health and discharge of children, and
27 provisions for confidentiality of such records~~7.~~.

1 "(8) Filing of reports with the department, ~~and.~~

2 "(9) Discipline of children.

3 "(b) If, in a facility for child care, there are
4 children diagnosed as mentally ill, or ~~mentally retarded~~ or
5 physically ~~handicapped~~ disabled who are determined to be in
6 need of special mental treatment or of nursing care, or both
7 mental treatment and nursing care, the department shall seek
8 the advice and recommendation of the Department of Mental
9 Health or the State Board of Health, or of both, regarding the
10 residential treatment and nursing care provided by the
11 facility.

12 "(c) The department, in applying standards
13 prescribed and published, as herein provided, shall offer
14 consultation through employed staff or other specified persons
15 to assist applicants and licensees in meeting and maintaining
16 minimum requirements for a license and to help them otherwise
17 to achieve programs of excellence related to the care of
18 children served.

19 "§38-7-12.

20 "(a) A child-care facility licensed or approved or
21 operating under a six-month permit issued by the department
22 may publish advertisements of the services for which it is
23 specifically licensed or approved or issued a permit under
24 this chapter.

25 "(b) A child-care facility that is seeking licensure
26 and is awaiting approval for licensure may publish
27 advertisements if the facility includes a disclaimer in the

1 advertisement stating that the facility is awaiting approval
2 for licensure.

3 "(c) ~~No person, unless licensed or approved or~~
4 ~~holding a permit as a child-care facility,~~ may cause to be
5 published any advertisement soliciting a child or children for
6 care or placement or offering a child or children for care or
7 placement except as provided by this section.

8 "§38-7-13.

9 "(a) Every child-care facility shall keep and
10 maintain such records as the department may prescribe
11 pertaining to the admission, progress, health and discharge of
12 children under the care of the facility. Records regarding
13 children and facts learned about children and their relatives
14 shall be made and kept electronically and shall be kept
15 confidential by the child-care facility and by the department.

16 "(b) The department ~~is authorized to promulgate~~ may
17 adopt rules ~~and regulations~~ governing the custody, use, and
18 disclosure of information in such records. Any person who has
19 arrived at the age of 19 and who was placed by the department
20 or by a licensed child-placing agency shall have the right to
21 receive from the department or from the licensed child-placing
22 agency information concerning his or her placement, ~~and~~ except,
23 that the name and address of a natural parent or relative
24 shall be given by the department or the licensed child-placing
25 agency only with the consent of ~~said~~ the natural parent or
26 relative.

27 "§38-7-14.

1 "a Every child-care facility shall make reports to
2 the department ~~on forms prescribed by the department~~ and at
3 times required by the department, giving information
4 pertaining to the children under care and such other facts as
5 the department may require.

6 "b Reports required by this section may be made on
7 forms provided by the department or on forms designed by the
8 child-care facility. Forms designed by child-care facilities
9 must meet requirements imposed by the department.

10 "§38-7-20.

11 "a Nothing in this chapter shall preclude an
12 individual under the age of 19 years who has graduated from a
13 high school with a Child Development Associate Credential from
14 being employed by a day care center and counted in the
15 staff-child ratio, ~~as defined in subdivision (4) of Section~~
16 ~~38-7-2.~~

17 "b Nothing in this chapter shall preclude an
18 individual aged at least 16 years, but not more than 18 years,
19 who meets child-care worker qualifications, as determined by
20 rule by the department, and who has a current Infant-Child
21 (Pediatric) Cardiopulmonary Resuscitation (CPR) Certificate
22 and a current First Aid Certificate from being employed by a
23 day care center and counted in the staff-child ratio.

24 "§38-13-4.

25 "(a) Every employer, childcare facility, adult care
26 facility, the Department of Human Resources, and childplacing
27 agency required to obtain a criminal history background

1 information check pursuant to this chapter shall obtain, prior
2 to or upon the date of employment, or issuance of a license or
3 approval or renewal thereof, and maintain in the agency or
4 personnel file, a request with written consent for the
5 criminal history background information check and a statement
6 signed by the applicant, volunteer, or employee indicating
7 whether he or she has ever been convicted of a crime, and if
8 so, fully disclosing all convictions. A criminal history
9 background information check conducted pursuant to this
10 chapter shall remain valid for five years, with the exception
11 that any new criminal investigation conducted against that
12 individual after the check is conducted shall cause the check
13 to become invalid. The statement shall include a notice and
14 questionnaire the same as or similar to the following:

15 ""(1) MANDATORY CRIMINAL HISTORY CHECK NOTICE:

16 Alabama law requires that a criminal history background
17 information check be conducted on all persons who hold a
18 license or work in a Department of Human Resources licensed
19 child_care or adult care facility, a foster or adoptive home
20 approved by the Department of Human Resources, or a licensed
21 child_placing agency, including all officers and agents of the
22 entity. You are required to provide full, complete, and
23 accurate information on your criminal conviction history upon
24 application for a license or employment. This information
25 shall be used to determine your suitability to provide care to
26 children, the elderly, or disabled individuals. Unless a
27 criminal history background information check report and

1 suitability determination have previously been obtained, you
2 must complete a written request and consent for a criminal
3 history background information check with fingerprints at the
4 time of application for employment. Refusal to complete these
5 documents or providing false information may result in refusal
6 of employment, approval, or licensure. The term conviction
7 includes a determination of guilt by a trial, by a plea of
8 guilty, or a plea of nolo contendere. You are required to
9 notify your employer, licensing agency, or entity where you
10 are performing volunteer work of any criminal conviction
11 occurring subsequent to the date of completion of this notice.
12 Any individual determined to have submitted false information
13 may be referred to the district attorney or law enforcement
14 for investigation and possible prosecution. An individual who
15 intentionally falsifies or provides any misleading information
16 on the statement is guilty of a Class A misdemeanor,
17 punishable by a fine of not more than two thousand dollars
18 (\$2,000) and imprisonment for not more than one year.

19 "(2) Convictions for any of the following crimes
20 shall make an individual unsuitable for employment, volunteer
21 work, approval, or licensure:

22 "a. A violent offense as defined in Section
23 12-25-32.

24 "b. A sex crime as defined in Section 15-20A-5.

25 "c. A crime that involves the physical or mental
26 injury or maltreatment of a child, the elderly, or an
27 individual with disabilities.

1 ""d. A crime committed against a child as defined in
2 Section 38-13-2.

3 ""e. A crime involving the sale or distribution of a
4 controlled substance.

5 ""f. A crime or offense committed in another state
6 or under federal law which would constitute any of the above
7 crimes in this state.

8 ""g. Conviction for a crime listed in the federal
9 Adoption and Safe Families Act, pursuant to 42 U.S.C. Section
10 671(a)(20), shall disqualify a person from being approved or
11 continuing to be approved as a foster parent or adoptive
12 parent and a convicted person shall be deemed unsuitable for
13 employment, volunteer work, approval, or licensure as a foster
14 parent or adoptive parent.

15 ""h. The Department of Human Resources may set other
16 disqualifying convictions by rule under the Administrative
17 Procedure Act, Section 41-22-1, et seq., for Department of
18 Human Resources licensed child or adult care facilities.

19 "(3) CRIMINAL HISTORY STATEMENT

20 ""Have you ever had a suitability determination made
21 by the Department of Human Resources in connection with a
22 previous criminal history information background check? Yes
23 (___) No (___).

24 ""Have you ever been convicted of a crime? Yes (___)
25 No (___). If yes, state the date, crime, location, punishment
26 imposed, and whether the victim was a child or an elderly or
27 disabled individual.

1 "" _____

2 "" _____

3 ""Date _____ Signature _____."

4 "(b) An individual who fails or refuses to provide a
5 statement shall not be employed, allowed to work or volunteer,
6 or issued a license or approval as defined in this chapter.
7 Upon receipt of a signed criminal history statement which does
8 not indicate conviction for a crime prohibiting employment
9 under the suitability criteria, an employer, including the
10 Department of Human Resources, may employ an applicant or
11 allow a volunteer or contract provider to work provisionally
12 pending receipt of a suitability determination from the
13 Department of Human Resources.

14 "(c) No later than the five business days after
15 employment or a reasonable time after completion of
16 application for a license or approval, an employer, the
17 Department of Human Resources, or child-placing agency shall
18 mail or deliver a request for a criminal history background
19 information check to the Alabama State Law Enforcement Agency
20 accompanied by all of the following:

21 "(1) Two complete sets of fingerprints, properly
22 executed by a law enforcement agency or an individual properly
23 trained in fingerprinting techniques.

24 "(2) Written consent from the applicant, employee,
25 or volunteer for the release of the criminal history
26 background information to the Department of Human Resources.

27 "(3) The fee.

1 "(d) Upon receipt of a suitability determination
2 from the Department of Human Resources that a person or entity
3 is suitable for employment, volunteer work, licensure, or
4 approval based on the criminal history background information
5 check, an employer, a child_care facility, adult care
6 facility, a child_placing agency, or the Department of Human
7 Resources may make its own determination of employment,
8 licensure, or approval. This chapter shall not create any
9 right to employment, work, approval, or licensure. Upon
10 receipt of a determination from the Department of Human
11 Resources that an individual is unsuitable for employment,
12 licensure, approval, or volunteer work, an employer, the
13 child_care facility, adult care facility, child_placing
14 agency, or Department of Human Resources shall terminate the
15 individual from employment or volunteer work or shall not
16 employ or use the individual. Termination of employment may be
17 delayed by the employer to allow the individual to challenge
18 either the accuracy or completeness of the criminal history
19 information background report or the suitability determination
20 made by the Department of Human Resources. The Department of
21 Human Resources or child_placing agency shall suspend or
22 revoke a license or approval or deny a license or approval
23 application to an individual receiving an unsuitability
24 determination. As an alternative to termination of employment,
25 the Department of Human Resources may transfer a permanent
26 Merit System employee to an available position for which the
27 employee is qualified where unsupervised access to children,

1 the elderly, or persons with disabilities shall not be an
2 essential function of the job.

3 "(e) If a review of a criminal history background
4 information check or other information received reveals that
5 the person has submitted false information, the employer,
6 child_care facility, adult care facility, child_placing
7 agency, or Department of Human Resources may terminate the
8 employee or volunteer. The Department of Human Resources or
9 child_placing agency may revoke the approval or license of a
10 person or entity when the person or entity submits false
11 information in a review of criminal history background
12 information check or other information. The Department of
13 Human Resources shall be notified of the false information and
14 may refer the case to an appropriate law enforcement agency or
15 district attorney for investigation and prosecution.

16 ~~"(f) Unless otherwise provided in this chapter, only~~
17 ~~one criminal history background information check shall be~~
18 ~~required on an individual regardless of subsequent changes in~~
19 ~~employment or licensing or approval status. Subsequent~~
20 ~~criminal history background information checks may be~~
21 ~~conducted by the employer or licensing or approval entity. The~~
22 ~~licensing or approval entity shall pay the cost for subsequent~~
23 ~~criminal history background information checks. If the~~
24 ~~statement signed by the applicant or employee states that a~~
25 ~~criminal history background information check has been~~
26 ~~performed and suitability determination issued on the~~
27 ~~individual pursuant to this chapter, the employer or licensing~~

1 ~~agency may request at the time of application only a~~
2 ~~suitability determination from the Department of Human~~
3 ~~Resources on the check previously performed, within five~~
4 ~~business days of employment, or completion of license or~~
5 ~~approval application, submitting the same kind of information~~
6 ~~and consent for the request for suitability determination as~~
7 ~~required by the written consent for a criminal history~~
8 ~~background information check. Criminal history background~~
9 ~~information checks and suitability determination letters from~~
10 ~~the Department of Human Resources for applicants, volunteers,~~
11 ~~or employees of any day care center, as defined in Section~~
12 ~~38-7-2, are valid for a period of five years, except that a~~
13 ~~new criminal investigation conducted against that individual~~
14 ~~after the check is conducted or the suitability determination~~
15 ~~letter is issued shall cause the check and the suitability~~
16 ~~determination letter to become invalid."~~

17 Section 2. Section 38-7-22 is added to the Code of
18 Alabama 1975, to read as follows:

19 §38-7-22.

20 In no case may an employer prohibit an individual
21 from working up to 12 hours in a single shift, or obligate an
22 individual to work more than eight hours in a given shift.

23 Section 3.

24 (a) Issuance of a suitability determination letter
25 by the Department of Human Resources pursuant to Chapter 13 of
26 Title 38 of the Code of Alabama 1975, shall be considered
27 conclusive evidence that an individual has not been convicted

1 of any of the crimes described in the definition of
2 "suitability criteria" in Section 38-13-2, Code of Alabama
3 1975. Suitability for employment, volunteer work, approval, or
4 licensure shall not be affected unless a new criminal
5 investigation is commenced against the individual.

6 (b) The Department of Human Resources may determine
7 that an individual is unsuitable to hold a license, permit, or
8 approval to operate a child-care facility or to work in a
9 child-care facility, or to have contact with children or
10 unsupervised access to children, if evidence of any of the
11 following, occurring not more than 10 years prior to the date
12 of application for licensure or for employment with a
13 child-care facility, exists with regard to the individual:

14 (1) Any felony conviction in any state.

15 (2) Theft and other financial crimes related to
16 business activities.

17 (3) A misdemeanor conviction in any state.

18 (4) Operation of a motor vehicle while under the
19 influence of or while impaired by the use of intoxicating
20 liquor or drugs.

21 (5) Any offense involving the reckless operation of
22 a motor vehicle at an excessive speed.

23 (6) Any crime involving the possession of a
24 controlled substance.

25 (7) Operation of a child-care facility without a
26 license, permit, or exemption.

1 (8) Refusal to cease operation of a child-care
2 facility when no license, permit, or exemption has been
3 granted.

4 (9) Consistent failure to maintain minimum standards
5 while operating a child-care facility.

6 (10) Refusal or failure to cooperate with any
7 investigation or inspection by the Department of Human
8 Resources.

9 (11) Making false or misleading statements or
10 reports to the Department of Human Resources.

11 (12) History indicating a pattern of deceit.

12 (13) Any other evidence indicating a lack of ability
13 to care for children.

14 Section 4. (a) Not later than January 1, 2023, the
15 Department of Human Resources shall amend its current rules or
16 adopt new rules that do all of the following with regard to
17 minimum standards for licensed day care centers, as defined in
18 Section 38-7-2, Code of Alabama 1975:

19 (1) Provide that work experience in a license-exempt
20 day care or in an industry unrelated to child care is
21 acceptable to fulfill the work experience requirement
22 necessary to qualify a person to be a child-care facility
23 director or other child-care facility employee in lieu of an
24 equivalent amount of experience working in a licensed
25 child-care facility, provided the applicant meets all other
26 requirements imposed by the department for qualification.

1 (2) Provide that any required training for
2 child-care facility personnel may be completed online or
3 on-site.

4 (3) Provide that any grant of clearance of the State
5 Central Registry on Child Abuse/Neglect for any license or
6 permit applicant, child-care facility director, or child-care
7 facility staff member shall automatically revoke upon
8 commencement of any new criminal investigation against that
9 person.

10 (4) Provide that a child-care facility shall meet
11 local fire code occupancy requirements, and that no additional
12 restrictions may be imposed pertaining to the ratio of total
13 floor space to the number of children served.

14 (5) Provide that a child-care facility shall provide
15 a crib for each infant, and that each crib shall be placed at
16 least 18 inches apart.

17 (6) Provide that a child-care facility shall make a
18 report to the department whenever an alteration is made that
19 may affect the safety or usability of the facility or grounds.

20 (7) Provide that any reports or documentation
21 required to be submitted to the department pertaining to the
22 operation of child-care facilities may be submitted digitally
23 or electronically, and identify specific personnel tasked with
24 receiving the reports or documentation.

25 (8) Provide that notice shall be given to all
26 child-care facilities 120 days in advance of any changes made

1 to the department's minimum standards for day care centers or
2 nighttime centers.

3 (9) Provide for suggestions, not requirements,
4 pertaining to items or equipment, including toys, utilized by
5 children in a child-care facility.

6 (10) Provide for a staff-child ratio of one to 11
7 for children aged two and one-half years old up to three years
8 old, and one to 13 for children aged three years old to four
9 years old.

10 (b) Not later than three months after the rules
11 described in this section are adopted, the department shall
12 update and publish its minimum standards for child-care
13 facilities.

14 Section 5. This act shall become effective on the
15 first day of the third month following its passage and
16 approval by the Governor, or its otherwise becoming law.