

HB63 INTRODUCED



1 7GAL2E-1
2 By Representative Gray
3 RFD: Children and Senior Advocacy
4 First Read: 07-Mar-23
5 PFD: 06-Mar-23



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SYNOPSIS:

Under existing law certain child-care facilities that are operating as an integral part of a local church ministry or a religious nonprofit school are exempt from certain licensure requirements.

This bill would exempt certain child-care facilities that provide cultural arts programs from licensure requirements, provided the program is strictly instructional and the facility does not advertise itself as providing child care.

This bill would require exempt child-care facilities to adhere to appropriate fire and health codes, criminal history, background check requirements, and insurance requirements, and to provide notice to parents of their exempt status.

This bill would require parents to submit an affidavit that they have been notified that the facility is not licensed.

This bill would require the Department of Human Resources to inspect any new child-care facility that is exempt from licensure before the facility may operate, and would allow the department to inspect any other exempt child-care facility upon reasonable cause that the facility is not in compliance with the law or a child's safety is at risk.



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29 This bill would also allow the district attorney
30 to investigate, at his or her discretion, any
31 allegations against an exempt child-care facility.
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34 A BILL
35 TO BE ENTITLED
36 AN ACT
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38 Relating to child-care facilities; to add Section
39 38-7-3.1 to the Code of Alabama 1975; to exempt certain
40 child-care facilities that provide instructional cultural arts
41 programs from licensure requirements; to require exempt
42 child-care facilities to comply with fire and health codes and
43 certain other policies; to require exempt child-care
44 facilities to provide notice that the facility is not licensed
45 and to require parents to submit an affidavit confirming the
46 notice; to require the Department of Human Resources to
47 inspect certain exempt child-care facilities; and to allow the
48 district attorney to investigate certain allegations against
49 an exempt child-care facility.

50 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

51 Section 1. Section 38-7-3.1 is added to the Code of
52 Alabama 1975, to read as follows:

53 §38-7-3.1

54 (a) (1) Except as provided in subdivision (2), the
55 licensure requirements of this chapter do not apply to a
56 child-care facility that provides cultural arts classes



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57 including, but not limited to, art, dance, gymnastics, martial
58 arts, and music, provided that the child-care facility
59 complies with all of the following:

60 a. The programs offered by the facility are strictly
61 instructional and skill-based in a single talent, ability,
62 expertise, proficiency, or subject or in closely related
63 skills, proficiencies, or subjects relating to cultural arts.

64 b. The child-care facility does not provide services
65 that are not directly related to the single skill or subject
66 or the closely related skills or subjects, including, but not
67 limited to, homework assistance.

68 c. The child-care facility does not advertise or
69 otherwise represent itself as a licensed child-care facility,
70 or advertise that it offers child-care services.

71 d. The child-care facility does not prepare meals or
72 snacks. The child-care facility may provide ready-to-eat
73 snacks, such as prepackaged snacks.

74 (2) A child-care facility that receives state or
75 federal funds is not exempt from licensure under this section.

76 (b) A child-care facility exempt from licensure under
77 this section shall do all of the following to maintain its
78 license exempt status:

79 (1) Provide notice of operation on an annual basis to
80 the appropriate fire and health departments so that the
81 facility may be inspected in accordance with the state and
82 local fire and health requirements, provided the facility
83 shall be inspected at least annually by the appropriate fire
84 department and the appropriate health department.



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85 (2) Provide to the department on or before October 1,
86 2023, and annually thereafter, the following records and
87 certify that the records are being maintained by the facility:

88 a. Documentation indicating the child-care facility is
89 in compliance with fire inspections and health inspections.

90 b. Employee names and their criminal history
91 information pursuant to Section 38-13-3.

92 c. Proof of property, casualty, and liability
93 insurance, as prescribed by the department.

94 d. Documentation within 30 days of any updated fire
95 inspection report, health inspection report, new criminal
96 background check suitability letter, or receipt of updated
97 insurance information as required under this subdivision.

98 (3) Post in plain view in a public area a statement
99 that the program is not regulated or licensed by the
100 Department of Human Resources.

101 (4) Require a parent or guardian to sign an affidavit
102 stating that the parent or guardian has been notified by the
103 responsible individual of the exempt child-care facility that
104 the facility has filed notice to the department and is exempt
105 from licensure and regulation by the department. The exempt
106 child-care facility shall file the affidavits annually with
107 the department. The affidavit shall be substantially in the
108 same form as provided in Section 38-7-3.

109 (c) (1) On and after the effective date of this act, any
110 individual or entity intending to operate a new child-care
111 facility in the state shall notify the department at least 30
112 days prior to operating, and the department shall inspect the



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113 facility and ensure compliance with this section before the
114 facility may begin operating.

115 (2) The department shall inspect any child-care
116 facility that is exempt from licensure under this section at
117 any time if it has reasonable cause to believe the facility is
118 not in compliance with this section or the safety of a child
119 is at risk. If the department finds there exists a situation
120 that may put the safety of a child at risk, the department may
121 refer the facility to the fire or health department or local
122 district attorney for the proper remedy or action.

123 (d) (1) The district attorney of the county in which a
124 child-care facility that is exempt from licensure under this
125 section is located, upon presentment of charges, may
126 investigate any allegations against the facility under the
127 laws of the state.

128 (2) The department, upon request, shall provide any
129 documentation necessary to confirm any of the information
130 relevant to a determination of whether a child-care facility
131 is exempt under this section to the district attorney.

132 (e) Any child-care facility that is exempt from
133 licensure under this section, upon request by the department,
134 shall provide the department with any information listed in
135 subsection (b) within 15 days.

136 (f) Nothing in this section or in this chapter
137 prohibits an employee of the department from carrying out the
138 duties of the department as prescribed in this title.

139 Section 2. This act shall become effective on the first
140 day of the third month following its passage and approval by



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141 the Governor, or its otherwise becoming law.