

HOUSE BILL 1307

F5, O4

EMERGENCY BILL

11r2520
CF 11r2258

By: **Delegate Smith**

Introduced and read first time: February 8, 2021

Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 9, 2021

CHAPTER _____

1 AN ACT concerning

2 **Education – Child Care Centers and Youth Development Organizations and**
3 **Programs**
4 **(Support Youth Development for School-Age Children Act)**

5 FOR the purpose of exempting certain youth development organizations and programs from
6 the definition of a child care center; authorizing youth development organizations or
7 programs to provide care for a child who is at least a certain age, under certain
8 circumstances; requiring a youth development organization or program to provide a
9 certain child care environment and have certain policies and requirements; requiring
10 certain youth development organizations and programs to submit annually to the
11 State Department of Education certain information; requiring certain youth
12 development organizations and programs to maintain liability insurance and certain
13 criminal background check records; requiring certain background checks to be
14 completed at regular intervals as determined by certain entities and the records to
15 be filed with the Department in accordance with certain regulations; requiring youth
16 development organizations and programs to allow the Department or an entity
17 contracted by the Department to inspect the organization's or program's facility to
18 ensure compliance with certain requirements; authorizing the Department to
19 prohibit certain youth development organizations or programs from participating in
20 Maryland EXCELS and receiving certain Child Care Scholarship benefits;
21 authorizing the Department to create a public registry for certain youth development
22 organizations and programs for a certain purpose; authorizing the Department to
23 assess a certain maximum fee to be certified as a certain youth development
24 organization or program; altering a certain definition; defining a certain term;
25 making this Act an emergency measure; providing for the termination of this Act;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



and generally relating to child care centers and youth development organizations and programs.

BY repealing and reenacting, with amendments,
Article – Education
Section 9.5–401
Annotated Code of Maryland
(2018 Replacement Volume and 2020 Supplement)

BY adding to
Article – Education
Section 9.5–401.1
Annotated Code of Maryland
(2018 Replacement Volume and 2020 Supplement)

Preamble

WHEREAS, Only 16% of school-aged Maryland students have access to high-quality, affordable after-school and summer programs; and

WHEREAS, This lack of out-of-school-time support places Maryland 43rd in national rankings for access to after-school and summer programs; and

WHEREAS, Youth development programs designed to meet national quality standards face barriers to expanding access for families and students, including regulations designed for youth aged 0–5 and duplicative standards and requirements for nationally affiliated organizations; and

WHEREAS, Maryland youth development organizations provide after-school and summer programs that are free and affordable for students and families; and

WHEREAS, 35 other states prioritize access to quality, affordable, out-of-school-time and youth development organizations and programs using an exemption similar to this Act; and

WHEREAS, The General Assembly recognizes the commitment by these youth development organizations and programs to foster a safe environment and provide high-quality programs and unique experiences that level the playing field for students; and

WHEREAS, The positive developmental growth, educational support, and rigorous safety standards set these trusted youth development organizations and programs apart from school-aged child care services; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Education

1 9.5–401.

2 (a) In this subtitle the following words have the meanings indicated.

3 (b) “Child” means an individual under the age of 16 years.

4 (c) (1) “Child care center” means an agency, institution, or establishment that,
5 for part or all of a day, or on a 24–hour basis on a regular schedule, and at least twice a
6 week, offers or provides child care to children who do not have the same parentage except
7 as otherwise provided for in law or regulation.

8 (2) “Child care center” shall include a nonpublic nursery school in which
9 an instructional program is offered or provided for children who are under the age of 5
10 years.

11 (3) “Child care center” does not include:

12 (i) A nonpublic kindergarten in which an instructional program is
13 offered or provided for children who are at least 5 years old;

14 (ii) A nonpublic elementary school in which an instructional
15 program is offered or provided for children who are in grades 1 through 8;

16 (iii) A child care home, a child care institution, or other child care
17 facility that offers or provides a residential placement for a child and is established,
18 licensed, or registered under this title, Title 9 of the Human Services Article, or Title 10 of
19 the Health – General Article; [or]

20 (iv) A family child care home or large family child care home that is
21 required to be registered or is registered under this title; OR

22 (v) **A YOUTH DEVELOPMENT ORGANIZATION OR PROGRAM.**

23 (d) “Letter of compliance” means a letter issued by the Department to a religious
24 organization that meets the requirements under § 9.5–404 of this subtitle.

25 (E) **“YOUTH DEVELOPMENT ORGANIZATION OR PROGRAM” MEANS THE**
26 **FOLLOWING ORGANIZATIONS OR PROGRAMS THAT PROVIDE OUT-OF-SCHOOL**
27 **SERVICES TO SCHOOL-AGE CHILDREN WHO ARE AT LEAST ~~6~~ 5 YEARS OLD AND MEET**
28 **THE REQUIREMENTS OF § 9.5–401.1 OF THIS SUBTITLE:**

29 (1) **AFFILIATES, IN GOOD STANDING, OF THE YMCA OF THE USA AND**
30 **YWCA USA;**

(2) AFFILIATES, IN GOOD STANDING, OF THE BOYS & GIRLS CLUBS OF AMERICA;

(3) PROGRAMS OF RECREATION AND PARKS OF A COUNTY OR MUNICIPAL CORPORATION;

(4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, PROGRAMS ORGANIZED AND OPERATED BY PUBLIC SCHOOLS, INCLUDING ORGANIZATIONS SUBCONTRACTED BY PUBLIC SCHOOLS; AND

~~(5) PROGRAMS THAT SERVE ONLY SECONDARY SCHOOL STUDENTS;~~

~~(6) PROGRAMS THAT:~~

~~(I) SERVE COMMUNITIES WITH A HIGH CONCENTRATION OF STUDENTS LIVING IN POVERTY; AND~~

~~(II) CHARGE A MAXIMUM WEEKLY FEE OF \$100; AND~~

~~(7)~~ (5) PROGRAMS FUNDED AND MONITORED BY LOCAL MANAGEMENT BOARDS AS DEFINED IN § 8-101 OF THE HUMAN SERVICES ARTICLE.

9.5-401.1.

(A) SUBJECT TO THE LIMITATIONS OF THIS SECTION, A YOUTH DEVELOPMENT ORGANIZATION OR PROGRAM MAY PROVIDE CARE FOR A CHILD WHO IS AT LEAST 5 YEARS OLD AND WHO ATTENDS A PUBLIC SCHOOL THAT:

(1) HAS BEEN CLOSED FOR IN-PERSON INSTRUCTION DUE TO PROLONGED EMERGENCY CONDITIONS; AND

(2) IS CONTINUING TO PROVIDE REGULAR INSTRUCTION TO STUDENTS IN SOME FORM.

(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, EACH YOUTH DEVELOPMENT ORGANIZATION OR PROGRAM SHALL PROVIDE A CHILD CARE ENVIRONMENT THAT IS AT LEAST AS PROTECTIVE OF CHILD SAFETY AS THE MARYLAND YOUTH CAMP ACT AND THE MARYLAND DEPARTMENT OF HEALTH'S REGULATIONS IMPLEMENTING THAT ACT.

(2) TO OPERATE IN ACCORDANCE WITH THIS SECTION, EACH YOUTH DEVELOPMENT ORGANIZATION OR PROGRAM SHALL HAVE:

(I) A CHILD TO EMPLOYEE RATIO OF NO MORE THAN 15 TO 1;

1 **(II) MINIMAL QUALIFICATIONS FOR EMPLOYEES REQUIRING**
2 **THAT EACH EMPLOYEE IS:**

3 **1. AT LEAST 18 YEARS OLD; AND**

4 **2. HAS OBTAINED A HIGH SCHOOL DIPLOMA OR ITS**
5 **EQUIVALENT; AND**

6 **(III) A REQUIREMENT FOR EACH CHILD TO RECEIVE CARE**
7 **APPROPRIATE FOR THE CHILD'S INDIVIDUAL NEEDS, INCLUDING:**

8 **1. MAKING REASONABLE ACCOMMODATIONS FOR A**
9 **CHILD WITH A DISABILITY; AND**

10 **2. ALLOWING AN ADULT WHO PROVIDES SPECIALIZED**
11 **SERVICES TO A CHILD WHO IS UNDER THE YOUTH DEVELOPMENT ORGANIZATION OR**
12 **PROGRAM'S CARE TO PROVIDE THOSE SERVICES ON THE GROUNDS OF THE**
13 **ORGANIZATION OR PROGRAM AS SPECIFIED IN:**

14 **A. THE CHILD'S INDIVIDUALIZED EDUCATION PROGRAM**
15 **PLAN;**

16 **B. AN INDIVIDUALIZED FAMILY SERVICE PLAN; OR**

17 **C. A WRITTEN BEHAVIORAL PLAN.**

18 **(C) A YOUTH DEVELOPMENT ORGANIZATION OR PROGRAM SHALL:**

19 **(1) SUBMIT ANNUALLY TO THE DEPARTMENT, IF APPLICABLE:**

20 **(I) CONTACT INFORMATION FOR THE ORGANIZATION OR**
21 **PROGRAM, INCLUDING THE DIRECTOR OF THE ORGANIZATION OR PROGRAM;**

22 **(II) THE LOCATION OF THE ORGANIZATION OR PROGRAM;**

23 **(III) AN AFFIDAVIT OR OTHER DOCUMENT DEMONSTRATING**
24 **THAT THE PROGRAM REMAINS IN GOOD STANDING WITH ITS NATIONAL OR LOCAL**
25 **AFFILIATE OR MONITORING AGENCY;**

26 **(IV) A DISCLOSURE THAT THE ORGANIZATION OR PROGRAM**
27 **MEETS THE REQUIREMENTS FOR ANY STATE OR FEDERAL GRANTS THAT THE**
28 **ORGANIZATION OR PROGRAM RECEIVES; AND**

(V) AN AFFIRMATION THAT THE FACILITIES CONTROLLED BY THE ORGANIZATION OR PROGRAM MEET ANY REQUIRED FIRE AND SAFETY STANDARDS; AND

(2) MAINTAIN:

(I) LIABILITY INSURANCE;

(II) SUBJECT TO SUBSECTION ~~(B)~~ (D) OF THIS SECTION, RECORDS OF CRIMINAL BACKGROUND CHECKS PERFORMED ON ALL EMPLOYEES AND VOLUNTEERS WHO HAVE CONTINUAL ACCESS TO CHILDREN ENGAGED WITH THE ORGANIZATION OR PROGRAM; AND

(III) FOR ANY FACILITY CONTROLLED BY THE ORGANIZATION OR PROGRAM, ANY REQUIRED FIRE AND SAFETY STANDARDS CERTIFICATIONS.

~~(B)~~ (D) (1) A CRIMINAL BACKGROUND CHECK UNDER THIS SECTION SHALL BE PERFORMED AT REGULAR INTERVALS AS DETERMINED BY THE NATIONAL OR LOCAL AFFILIATE OR MONITORING AGENCY.

(2) THE RECORD OF EACH CRIMINAL BACKGROUND CHECK PERFORMED IN ACCORDANCE WITH THIS SUBSECTION SHALL BE FILED WITH THE DEPARTMENT IN ACCORDANCE WITH THE DEPARTMENT'S REGULATIONS.

~~(C)~~ (E) ALL YOUTH DEVELOPMENT ORGANIZATIONS OR PROGRAMS SHALL ADMIT INDIVIDUALS FROM THE DEPARTMENT OR AN ENTITY CONTRACTED BY THE DEPARTMENT TO INSPECT THE FACILITY TO ENSURE COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION.

~~(D)~~ (F) THE DEPARTMENT MAY:

(1) PROHIBIT YOUTH DEVELOPMENT ORGANIZATIONS OR PROGRAMS FROM:

(I) PARTICIPATING IN MARYLAND EXCELS; OR

(II) RECEIVING CHILD CARE SCHOLARSHIP BENEFITS;

(2) CREATE A PUBLIC REGISTRY OF YOUTH DEVELOPMENT ORGANIZATIONS AND PROGRAMS FOR THE PURPOSE OF PROVIDING INFORMATION ABOUT THESE ORGANIZATIONS AND PROGRAMS TO SCHOOLS, PARENTS, AND CHILDREN; OR

1 **(3) ASSESS FOR EACH YOUTH DEVELOPMENT ORGANIZATION OR**
2 **PROGRAM A MAXIMUM ANNUAL FEE OF \$100 TO BE CERTIFIED AS A YOUTH**
3 **DEVELOPMENT ORGANIZATION OR PROGRAM UNDER THIS SECTION.**

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
5 measure, is necessary for the immediate preservation of the public health or safety, has
6 been passed by a yea and nay vote supported by three-fifths of all the members elected to
7 each of the two Houses of the General Assembly, and shall take effect from the date it is
8 enacted. It shall remain effective through June 30, 2022, and, at the end of June 30, 2022,
9 this Act, with no further action required by the General Assembly, shall be abrogated and
10 of no further force and effect.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.