

# HOUSE BILL 1307

F5, O4

EMERGENCY BILL

11r2520  
CF 11r2258

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By: **Delegate Smith**

Introduced and read first time: February 8, 2021

Assigned to: Ways and Means

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 9, 2021

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## 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;

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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.



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

3 BY repealing and reenacting, with amendments,  
4 Article – Education  
5 Section 9.5–401  
6 Annotated Code of Maryland  
7 (2018 Replacement Volume and 2020 Supplement)

8 BY adding to  
9 Article – Education  
10 Section 9.5–401.1  
11 Annotated Code of Maryland  
12 (2018 Replacement Volume and 2020 Supplement)

### 13 Preamble

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

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

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

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

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

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

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

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

### 35 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;**

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

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

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

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

9           ~~(6) PROGRAMS THAT:~~

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

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

13           ~~(7)~~ (5) PROGRAMS FUNDED AND MONITORED BY LOCAL  
14 MANAGEMENT BOARDS AS DEFINED IN § 8-101 OF THE HUMAN SERVICES ARTICLE.

15 9.5-401.1.

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

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

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

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

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

30           (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**

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

4 (2) MAINTAIN:

5 (I) LIABILITY INSURANCE;

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

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

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

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

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

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

23 (1) PROHIBIT YOUTH DEVELOPMENT ORGANIZATIONS OR PROGRAMS  
24 FROM:

25 (I) PARTICIPATING IN MARYLAND EXCELS; OR

26 (II) RECEIVING CHILD CARE SCHOLARSHIP BENEFITS;

27 (2) CREATE A PUBLIC REGISTRY OF YOUTH DEVELOPMENT  
28 ORGANIZATIONS AND PROGRAMS FOR THE PURPOSE OF PROVIDING INFORMATION  
29 ABOUT THESE ORGANIZATIONS AND PROGRAMS TO SCHOOLS, PARENTS, AND  
30 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:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.