

1 A bill to be entitled
2 An act relating to neighborhood pod learning programs;
3 providing a short title; amending s. 1002.01, F.S.;
4 defining the term "neighborhood pod learning program";
5 creating s. 1002.46, F.S.; authorizing the parents of
6 children from at least two unrelated families to
7 establish and operate a neighborhood pod learning
8 program; defining terms; requiring parents who
9 establish a program to notify district school
10 superintendents; specifying the requirements of such
11 notice; clarifying that such programs are not school
12 district programs; providing that a parent
13 participating in operating a program is not required
14 to hold a Florida teaching certificate; requiring
15 school district superintendents to accept notices and
16 register programs; prohibiting a district from
17 requiring additional information or verification from
18 a program parent unless a program student chooses to
19 participate in a school district program or service;
20 prohibiting a school district superintendent from
21 assigning a grade level to a program student or
22 include other specified information in a database
23 unless the student chooses to participate in a school
24 district program or service; requiring program parents
25 to file a written notice of termination upon

26 completion of the program; providing construction;
27 requiring an agency or political subdivision of the
28 state to demonstrate clear and convincing evidence
29 that any enforcement action would not interfere in
30 specified manners with operating a program; providing
31 that such programs are a permitted use in all
32 residential zones; providing that a program does not
33 violate the Florida Fire Prevention Code under certain
34 circumstances; clarifying that a program is not a
35 child care facility, family day care home, or large
36 family child care home; prohibiting discrimination
37 against a parent or student for participation in a
38 program; providing that a program does not increase
39 the regulatory authority of the state; providing for
40 severability; amending ss. 1002.395 and 1002.421,
41 F.S.; conforming cross-references; providing an
42 effective date.

43
44 WHEREAS, the effects of COVID-19 have made it clear that
45 traditional educational institutions are subject to unique
46 concerns when faced with a pandemic, and

47 WHEREAS, evidence suggests that remote and purely virtual
48 learning options are not the appropriate solutions for all
49 students, and

50 WHEREAS, in response to COVID-19, some parents have created

51 "learning pods" in which multiple families pool resources to
52 hire independent educators, and

53 WHEREAS, this phenomenon is largely decentralized,
54 typically involving small groups of parents pooling resources to
55 benefit their children's education, and

56 WHEREAS, learning pods that have been formed primarily as a
57 response to the pandemic have seen early indicators of success,
58 and

59 WHEREAS, regulatory barriers limit the potentially positive
60 effects of learning pods, as existing regulations are poorly
61 suited to allow learning pods to exist in a safe and regulated
62 manner, and

63 WHEREAS, in order to ensure the continuity of children's
64 education and encourage parents and teachers to take advantage
65 of potentially beneficial alternative education arrangements,
66 and to ensure the uniform regulation of learning pods in this
67 state, NOW, THEREFORE,

68

69 Be It Enacted by the Legislature of the State of Florida:

70

71 Section 1. This act may be cited as the "Neighborhood Pod
72 Learning Act."

73 Section 2. Present subsection (2) of section 1002.01,
74 Florida Statutes, is redesignated as subsection (3), and a new
75 subsection (2) is added to that section, to read:

76 1002.01 Definitions.—

77 (2) A "neighborhood pod learning program" is a voluntary
 78 association of parents without corporate status which provides
 79 for the sequentially progressive instruction of the parents'
 80 children to satisfy the attendance requirements of ss. 1002.46,
 81 1003.01(13), and 1003.21(1).

82 Section 3. Section 1002.46, Florida Statutes, is created
 83 to read:

84 1002.46 Neighborhood pod learning programs.—

85 (1) The parents of children from at least two families not
 86 related by blood, marriage, or legal adoption may associate
 87 together to establish and operate a neighborhood pod learning
 88 program.

89 (2) As used in this section, the term:

90 (a) "Neighborhood pod learning program" or "program" has
 91 the same meaning as in s. 1002.01.

92 (b) "Operating a neighborhood pod learning program" or
 93 "operating a program" means any actions taken by any program
 94 parent or individual assisting a program parent to organize,
 95 facilitate, or operate the program in any facility, home, or
 96 other structure used by the program.

97 (c) "Parent" means a resident of this state who is a
 98 parent as defined in s. 1000.21(5).

99 (3) (a) Any parents who associate together to establish and
 100 operate a program shall notify the district school

101 superintendent of the county in which the parents reside of
102 their intent to establish and operate such program. The notice
103 must be in writing, be signed by each parent in the program, and
104 include the full legal names, addresses, and birthdates of all
105 children who will be enrolled as students in the program. The
106 notice must be filed in the district school superintendent's
107 office within 30 days after the establishment of the program.

108 (b) A neighborhood pod learning program is not a school
109 district program and is registered with the district school
110 superintendent only for the purpose of complying with the
111 state's attendance requirements under s. 1003.21(1). A parent
112 participating in operating a program is not required to hold a
113 Florida teaching certificate.

114 (c) The district school superintendent shall accept the
115 notice and immediately register the program upon its receipt.
116 The district may not require any additional information or
117 verification from a program parent unless his or her student
118 chooses to participate in a school district program or service.
119 The district school superintendent may not assign a grade level
120 to a program student or include a social security number or any
121 other personal information of the student in any school district
122 or state database unless the student chooses to participate in a
123 school district program or service.

124 (d) The parents operating a program shall file a written
125 notice of termination upon completion of the program with the

126 district school superintendent.

127 (4) (a) A neighborhood pod learning program shall be
128 construed by an agency or political subdivision of the state to
129 be a home education program under s. 1002.41, including for the
130 purposes of satisfying the school attendance requirements of ss.
131 1003.01(13) and 1003.21(1), so long as the neighborhood pod
132 learning program complies with the requirements of subsection
133 (b) and the requirements of a home education program under s.
134 1002.41(1)(d)-(f).

135 (b) An agency or political subdivision of the state must
136 demonstrate by clear and convincing evidence that any
137 enforcement action that would directly or indirectly interfere
138 with operating a program:

139 1. Does not unduly impede the freedom of parents and
140 guardians to provide for the care, supervision, and education of
141 their children;

142 2. Does not single out program activities while similar
143 gatherings of children for recreational or social activities
144 remain unregulated;

145 3. Is narrowly tailored to protect the public health and
146 safety; and

147 4. Does not otherwise conflict with the requirements of
148 this section.

149 (5) (a) Operating a neighborhood pod learning program is a
150 residential use of property for the purposes of zoning and a

151 permitted use in all residential zones and is not subject to a
152 special use or conditional use permit or a procedure different
153 from those required for other similar dwellings in the same
154 area. A program does not violate the Florida Fire Prevention
155 Code so long as the building being used to operate a program
156 would satisfy the requirements of the Florida Fire Prevention
157 Code in light of the purpose for which the building was
158 originally intended.

159 (b) A program is not a child care facility, family day
160 care home, or large family child care home as defined in s.
161 403.302. This section does not alter any of the requirements of
162 a licensed child care facility, family day care home, or large
163 family child care home.

164 (6) A parent or student may not be penalized or
165 discriminated against by an agency or political subdivision of
166 the state for the parent's or student's participation in a
167 program.

168 (7) This section does not expand the regulatory authority
169 of this state, its officers, or any school district to impose
170 additional regulation on home education students.

171 Section 4. Paragraph (g) of subsection (2) of section
172 1002.395, Florida Statutes, is amended to read:

173 1002.395 Florida Tax Credit Scholarship Program.—

174 (2) DEFINITIONS.—As used in this section, the term:

175 (g) "Eligible private school" means a private school, as

176 defined in s. 1002.01(3) ~~s. 1002.01(2)~~, located in Florida which
 177 offers an education to students in any grades K-12 and that
 178 meets the requirements in subsection (8).

179 Section 5. Subsection (1) of section 1002.421, Florida
 180 Statutes, is amended to read:

181 1002.421 State school choice scholarship program
 182 accountability and oversight.—

183 (1) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—A private
 184 school participating in an educational scholarship program
 185 established pursuant to this chapter must be a private school as
 186 defined in s. 1002.01(3) ~~s. 1002.01(2)~~ in this state, be
 187 registered, and be in compliance with all requirements of this
 188 section in addition to private school requirements outlined in
 189 s. 1002.42, specific requirements identified within respective
 190 scholarship program laws, and other provisions of Florida law
 191 that apply to private schools, and must:

192 (a) Comply with the antidiscrimination provisions of 42
 193 U.S.C. s. 2000d.

194 (b) Notify the department of its intent to participate in
 195 a scholarship program.

196 (c) Notify the department of any change in the school's
 197 name, school director, mailing address, or physical location
 198 within 15 days after the change.

199 (d) Provide to the department or scholarship-funding
 200 organization all documentation required for a student's

201 participation, including the private school's and student's
202 individual fee schedule, and attendance verification as required
203 by the department or scholarship-funding organization, prior to
204 scholarship payment.

205 (e) Annually complete and submit to the department a
206 notarized scholarship compliance statement certifying that all
207 school employees and contracted personnel with direct student
208 contact have undergone background screening pursuant to s.
209 943.0542 and have met the screening standards as provided in s.
210 435.04.

211 (f) Demonstrate fiscal soundness and accountability by:

212 1. Being in operation for at least 3 school years or
213 obtaining a surety bond or letter of credit for the amount equal
214 to the scholarship funds for any quarter and filing the surety
215 bond or letter of credit with the department.

216 2. Requiring the parent of each scholarship student to
217 personally restrictively endorse the scholarship warrant to the
218 school or to approve a funds transfer before any funds are
219 deposited for a student. The school may not act as attorney in
220 fact for the parent of a scholarship student under the authority
221 of a power of attorney executed by such parent, or under any
222 other authority, to endorse a scholarship warrant or approve a
223 funds transfer on behalf of such parent.

224 (g) Meet applicable state and local health, safety, and
225 welfare laws, codes, and rules, including:

226 | 1. Firesafety.

227 | 2. Building safety.

228 | (h) Employ or contract with teachers who hold
 229 | baccalaureate or higher degrees, have at least 3 years of
 230 | teaching experience in public or private schools, or have
 231 | special skills, knowledge, or expertise that qualifies them to
 232 | provide instruction in subjects taught.

233 | (i) Maintain a physical location in the state at which
 234 | each student has regular and direct contact with teachers.

235 | (j) Publish on the school's website, or provide in a
 236 | written format, information for parents regarding the school,
 237 | including, but not limited to, programs, services, and the
 238 | qualifications of classroom teachers.

239 | (k) At a minimum, provide the parent of each scholarship
 240 | student with a written explanation of the student's progress on
 241 | a quarterly basis.

242 | (l) Cooperate with a student whose parent chooses to
 243 | participate in the statewide assessments pursuant to s. 1008.22.

244 | (m) Require each employee and contracted personnel with
 245 | direct student contact, upon employment or engagement to provide
 246 | services, to undergo a state and national background screening,
 247 | pursuant to s. 943.0542, by electronically filing with the
 248 | Department of Law Enforcement a complete set of fingerprints
 249 | taken by an authorized law enforcement agency or an employee of
 250 | the private school, a school district, or a private company who

251 is trained to take fingerprints and deny employment to or
252 terminate an employee if he or she fails to meet the screening
253 standards under s. 435.04. Results of the screening shall be
254 provided to the participating private school. For purposes of
255 this paragraph:

256 1. An "employee or contracted personnel with direct
257 student contact" means any employee or contracted personnel who
258 has unsupervised access to a scholarship student for whom the
259 private school is responsible.

260 2. The costs of fingerprinting and the background check
261 shall not be borne by the state.

262 3. Continued employment of an employee or contracted
263 personnel after notification that he or she has failed the
264 background screening under this paragraph shall cause a private
265 school to be ineligible for participation in a scholarship
266 program.

267 4. An employee or contracted personnel holding a valid
268 Florida teaching certificate who has been fingerprinted pursuant
269 to s. 1012.32 is not required to comply with the provisions of
270 this paragraph.

271 5. All fingerprints submitted to the Department of Law
272 Enforcement as required by this section shall be retained by the
273 Department of Law Enforcement in a manner provided by rule and
274 entered in the statewide automated biometric identification
275 system authorized by s. 943.05(2)(b). Such fingerprints shall

276 thereafter be available for all purposes and uses authorized for
277 arrest fingerprints entered in the statewide automated biometric
278 identification system pursuant to s. 943.051.

279 6. The Department of Law Enforcement shall search all
280 arrest fingerprints received under s. 943.051 against the
281 fingerprints retained in the statewide automated biometric
282 identification system under subparagraph 5. Any arrest record
283 that is identified with the retained fingerprints of a person
284 subject to the background screening under this section shall be
285 reported to the employing school with which the person is
286 affiliated. Each private school participating in a scholarship
287 program is required to participate in this search process by
288 informing the Department of Law Enforcement of any change in the
289 employment or contractual status of its personnel whose
290 fingerprints are retained under subparagraph 5. The Department
291 of Law Enforcement shall adopt a rule setting the amount of the
292 annual fee to be imposed upon each private school for performing
293 these searches and establishing the procedures for the retention
294 of private school employee and contracted personnel fingerprints
295 and the dissemination of search results. The fee may be borne by
296 the private school or the person fingerprinted.

297 7. Employees and contracted personnel whose fingerprints
298 are not retained by the Department of Law Enforcement under
299 subparagraphs 5. and 6. are required to be refingerprinted and
300 must meet state and national background screening requirements

301 upon reemployment or reengagement to provide services in order
302 to comply with the requirements of this section.

303 8. Every 5 years following employment or engagement to
304 provide services with a private school, employees or contracted
305 personnel required to be screened under this section must meet
306 screening standards under s. 435.04, at which time the private
307 school shall request the Department of Law Enforcement to
308 forward the fingerprints to the Federal Bureau of Investigation
309 for national processing. If the fingerprints of employees or
310 contracted personnel are not retained by the Department of Law
311 Enforcement under subparagraph 5., employees and contracted
312 personnel must electronically file a complete set of
313 fingerprints with the Department of Law Enforcement. Upon
314 submission of fingerprints for this purpose, the private school
315 shall request that the Department of Law Enforcement forward the
316 fingerprints to the Federal Bureau of Investigation for national
317 processing, and the fingerprints shall be retained by the
318 Department of Law Enforcement under subparagraph 5.

319 (n) Adopt policies establishing standards of ethical
320 conduct for instructional personnel and school administrators.
321 The policies must require all instructional personnel and school
322 administrators, as defined in s. 1012.01, to complete training
323 on the standards; establish the duty of instructional personnel
324 and school administrators to report, and procedures for
325 reporting, alleged misconduct by other instructional personnel

326 | and school administrators which affects the health, safety, or
327 | welfare of a student; and include an explanation of the
328 | liability protections provided under ss. 39.203 and 768.095. A
329 | private school, or any of its employees, may not enter into a
330 | confidentiality agreement regarding terminated or dismissed
331 | instructional personnel or school administrators, or personnel
332 | or administrators who resign in lieu of termination, based in
333 | whole or in part on misconduct that affects the health, safety,
334 | or welfare of a student, and may not provide the instructional
335 | personnel or school administrators with employment references or
336 | discuss the personnel's or administrators' performance with
337 | prospective employers in another educational setting, without
338 | disclosing the personnel's or administrators' misconduct. Any
339 | part of an agreement or contract that has the purpose or effect
340 | of concealing misconduct by instructional personnel or school
341 | administrators which affects the health, safety, or welfare of a
342 | student is void, is contrary to public policy, and may not be
343 | enforced.

344 | (o) Before employing instructional personnel or school
345 | administrators in any position that requires direct contact with
346 | students, conduct employment history checks of each of the
347 | personnel's or administrators' previous employers, screen the
348 | personnel or administrators through use of the educator
349 | screening tools described in s. 1001.10(5), and document the
350 | findings. If unable to contact a previous employer, the private

351 school must document efforts to contact the employer.

352 (p) Require each owner or operator of the private school,
353 prior to employment or engagement to provide services, to
354 undergo level 2 background screening as provided under chapter
355 435. For purposes of this paragraph, the term "owner or
356 operator" means an owner, operator, superintendent, or principal
357 of, or a person with equivalent decisionmaking authority over, a
358 private school participating in a scholarship program
359 established pursuant to this chapter. The fingerprints for the
360 background screening must be electronically submitted to the
361 Department of Law Enforcement and may be taken by an authorized
362 law enforcement agency or a private company who is trained to
363 take fingerprints. However, the complete set of fingerprints of
364 an owner or operator may not be taken by the owner or operator.
365 The owner or operator shall provide a copy of the results of the
366 state and national criminal history check to the Department of
367 Education. The cost of the background screening may be borne by
368 the owner or operator.

369 1. Every 5 years following employment or engagement to
370 provide services, each owner or operator must meet level 2
371 screening standards as described in s. 435.04, at which time the
372 owner or operator shall request the Department of Law
373 Enforcement to forward the fingerprints to the Federal Bureau of
374 Investigation for level 2 screening. If the fingerprints of an
375 owner or operator are not retained by the Department of Law

376 Enforcement under subparagraph 2., the owner or operator must
377 electronically file a complete set of fingerprints with the
378 Department of Law Enforcement. Upon submission of fingerprints
379 for this purpose, the owner or operator shall request that the
380 Department of Law Enforcement forward the fingerprints to the
381 Federal Bureau of Investigation for level 2 screening, and the
382 fingerprints shall be retained by the Department of Law
383 Enforcement under subparagraph 2.

384 2. Fingerprints submitted to the Department of Law
385 Enforcement as required by this paragraph must be retained by
386 the Department of Law Enforcement in a manner approved by rule
387 and entered in the statewide automated biometric identification
388 system authorized by s. 943.05(2)(b). The fingerprints must
389 thereafter be available for all purposes and uses authorized for
390 arrest fingerprints entered in the statewide automated biometric
391 identification system pursuant to s. 943.051.

392 3. The Department of Law Enforcement shall search all
393 arrest fingerprints received under s. 943.051 against the
394 fingerprints retained in the statewide automated biometric
395 identification system under subparagraph 2. Any arrest record
396 that is identified with an owner's or operator's fingerprints
397 must be reported to the owner or operator, who must report to
398 the Department of Education. Any costs associated with the
399 search shall be borne by the owner or operator.

400 4. An owner or operator who fails the level 2 background

401 screening is not eligible to participate in a scholarship
402 program under this chapter.

403 5. In addition to the offenses listed in s. 435.04, a
404 person required to undergo background screening pursuant to this
405 part or authorizing statutes may not have an arrest awaiting
406 final disposition for, must not have been found guilty of, or
407 entered a plea of nolo contendere to, regardless of
408 adjudication, and must not have been adjudicated delinquent for,
409 and the record must not have been sealed or expunged for, any of
410 the following offenses or any similar offense of another
411 jurisdiction:

412 a. Any authorizing statutes, if the offense was a felony.

413 b. This chapter, if the offense was a felony.

414 c. Section 409.920, relating to Medicaid provider fraud.

415 d. Section 409.9201, relating to Medicaid fraud.

416 e. Section 741.28, relating to domestic violence.

417 f. Section 817.034, relating to fraudulent acts through
418 mail, wire, radio, electromagnetic, photoelectronic, or
419 photooptical systems.

420 g. Section 817.234, relating to false and fraudulent
421 insurance claims.

422 h. Section 817.505, relating to patient brokering.

423 i. Section 817.568, relating to criminal use of personal
424 identification information.

425 j. Section 817.60, relating to obtaining a credit card

426 through fraudulent means.

427 k. Section 817.61, relating to fraudulent use of credit
428 cards, if the offense was a felony.

429 l. Section 831.01, relating to forgery.

430 m. Section 831.02, relating to uttering forged
431 instruments.

432 n. Section 831.07, relating to forging bank bills, checks,
433 drafts, or promissory notes.

434 o. Section 831.09, relating to uttering forged bank bills,
435 checks, drafts, or promissory notes.

436 p. Section 831.30, relating to fraud in obtaining
437 medicinal drugs.

438 q. Section 831.31, relating to the sale, manufacture,
439 delivery, or possession with the intent to sell, manufacture, or
440 deliver any counterfeit controlled substance, if the offense was
441 a felony.

442 6. At least 30 calendar days before a transfer of
443 ownership of a private school, the owner or operator shall
444 notify the parent of each scholarship student.

445 7. The owner or operator of a private school that has been
446 deemed ineligible to participate in a scholarship program
447 pursuant to this chapter may not transfer ownership or
448 management authority of the school to a relative in order to
449 participate in a scholarship program as the same school or a new
450 school. For purposes of this subparagraph, the term "relative"

451 means father, mother, son, daughter, grandfather, grandmother,
452 brother, sister, uncle, aunt, cousin, nephew, niece, husband,
453 wife, father-in-law, mother-in-law, son-in-law, daughter-in-law,
454 brother-in-law, sister-in-law, stepfather, stepmother, stepson,
455 stepdaughter, stepbrother, stepsister, half-brother, or half-
456 sister.

457 (q) Provide a report from an independent certified public
458 accountant who performs the agreed-upon procedures developed
459 pursuant to s. 1002.395(6)(o) if the private school receives
460 more than \$250,000 in funds from scholarships awarded under this
461 chapter in a state fiscal year. A private school subject to this
462 subsection must annually submit the report by September 15 to
463 the scholarship-funding organization that awarded the majority
464 of the school's scholarship funds. However, a school that
465 receives more than \$250,000 in scholarship funds only through
466 the John M. McKay Scholarship for Students with Disabilities
467 Program pursuant to s. 1002.39 must submit the annual report by
468 September 15 to the department. The agreed-upon procedures must
469 be conducted in accordance with attestation standards
470 established by the American Institute of Certified Public
471 Accountants.

472

473 The department shall suspend the payment of funds to a private
474 school that knowingly fails to comply with this subsection, and
475 shall prohibit the school from enrolling new scholarship

476 | students, for 1 fiscal year and until the school complies. If a
477 | private school fails to meet the requirements of this subsection
478 | or has consecutive years of material exceptions listed in the
479 | report required under paragraph (q), the commissioner may
480 | determine that the private school is ineligible to participate
481 | in a scholarship program.

482 | Section 6. If any provision of this act or its application
483 | to any person or circumstance is held invalid, the invalidity
484 | does not affect other provisions or applications of the act
485 | which can be given effect without the invalid provision or
486 | application, and to this end the provisions of this act are
487 | severable.

488 | Section 7. This act shall take effect July 1, 2021.