

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

FILED SENATE
Apr 30, 2026
S.B. 1053
PRINCIPAL CLERK

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SENATE BILL DRS45547-LUa-154B

Short Title: Child Care Licensing Penalty Reform. (Public)

Sponsors: Senators Chaudhuri and Burgin (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REDUCE THE SEVERITY OF THE FELONY LEVEL AND GRANT
3 PROSECUTORIAL DISCRETION IN CHILD CARE LICENSING VIOLATIONS.

4 Whereas, the current Class I felony classification under G.S. 110-103(b) for child care
5 facility licensing violations may create disproportionate consequences relative to the underlying
6 conduct when no injury to children has occurred; and

7 Whereas, providing prosecutors and courts with discretion to impose penalties
8 proportionate to the nature and severity of a violation will ensure more just and flexible
9 enforcement while preserving deterrence; and

10 Whereas, reducing the felony grade to a Class A1 misdemeanor for base violations,
11 while retaining felony exposure for willful and repeated violations involving multiple children,
12 strikes an appropriate balance between public safety and proportionate punishment; Now,
13 therefore,

14 The General Assembly of North Carolina enacts:

15 SECTION 1. G.S. 110-103 reads as rewritten:

16 "§ 110-103. Criminal penalty.

17 ...

18 (b) ~~It shall be a Class I felony for any~~Any person who operates a child care facility to:

19 (1) ~~Willfully violate~~and (i) willfully violates the provisions of G.S. 110-99(a), or

20 (2) ~~Willfully violate~~(ii) willfully violates the provisions of this Article while

21 providing child care for three or more children, for more than four hours per
22 day on two consecutive ~~days.~~days, shall be subject to the following criminal
23 penalties:

24 (1) For a first offense under this subsection, the person shall be guilty of a Class
25 A1 misdemeanor.

26 (2) For a second or subsequent offense under this subsection, or where the
27 violation poses a substantial risk of harm to a child, the district attorney, in the
28 exercise of prosecutorial discretion, may charge the violation as a Class I
29 felony. In exercising this discretion, the district attorney shall consider the
30 nature and circumstances of the violation, the number of children placed at
31 risk, the history of prior violations, and whether the operator took prompt
32 corrective action.

33 (b1) Nothing in subsection (b) of this section limits the authority of the Department to
34 pursue civil or administrative remedies concurrently with or in lieu of criminal prosecution.

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1 **SECTION 2.(a)** There is appropriated from the General Fund to the Department of
2 Health and Human Services, Division of Child Development and Early Education, the sum of
3 fifty thousand dollars (\$50,000) in nonrecurring funds for the 2025-2026 fiscal year to implement
4 the following:

- 5 (1) Update enforcement protocols, internal policy guidance, and staff training
6 materials to reflect the revised criminal penalty structure under
7 G.S. 110-103(b), as enacted by this act, including the reclassification of first
8 offenses as Class A1 misdemeanors and the criteria applicable to Class I
9 felony charging decisions for second or subsequent offenses.
- 10 (2) Develop and disseminate guidance to child care facility operators and the
11 public regarding the revised penalty structure, including the factors a district
12 attorney may consider in exercising prosecutorial discretion under
13 G.S. 110-103(b)(2), as enacted by Section 1 of this act.
- 14 (3) Coordinate with the Department of Justice and the Administrative Office of
15 the Courts to ensure consistent implementation of the revised penalty
16 structure.

17 **SECTION 2.(b)** There is appropriated from the General Fund to the Administrative
18 Office of the Courts the sum of twenty-five thousand dollars (\$25,000) in nonrecurring funds for
19 the 2025-2026 fiscal year to implement the following:

- 20 (1) Update charging instruments, case management systems, and related forms to
21 reflect the revised classification of offenses under G.S. 110-103(b), as enacted
22 by Section 1 of this act.
- 23 (2) Provide notice and guidance to district attorneys, clerks of superior court, and
24 other relevant court personnel regarding the revised penalty structure, the
25 discretionary felony charging criteria, and the effective date of this act.

26 **SECTION 3.** This act is effective when it becomes law and applies to violations
27 occurring on or after that date. This act does not affect the prosecution or punishment of a person
28 for an offense committed before the effective date of this act.