

HOUSE BILL No. 2213

By Committee on Health and Human Services

1-25

9 AN ACT concerning certain facilities for children; amending K.S.A. 65-
10 504, 65-505, 65-521, 65-522, 65-523 and 65-524 and K.S.A. 2006 Supp.
11 65-526 and repealing the existing sections.
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 65-504 is hereby amended to read as follows: 65-
15 504. (a) The secretary of health and environment shall have the power to
16 grant a license to a person to maintain a maternity center or child care
17 facility for children under 16 years of age. The license shall state the name
18 of the licensee, describe the particular premises in or at which the busi-
19 ness shall be carried on, whether it shall receive and care for women or
20 children, and the number of women or children that may be treated,
21 maintained, boarded or cared for at any one time. No greater number of
22 women or children than is authorized in the license shall be kept on those
23 premises and the business shall not be carried on in a building or place
24 not designated in the license. The license shall be kept posted in a con-
25 spicuous place on the premises where the business is conducted. The
26 secretary of health and environment shall grant no license in any case
27 until careful inspection of the maternity center or child care facility shall
28 have been made according to the terms of this act and until such mater-
29 nity center or child care facility has complied with all the requirements
30 of this act. Except as provided by this subsection, no license shall be
31 granted without the approval of the secretary of social and rehabilitation
32 services. The secretary of health and environment may issue, without the
33 approval of the secretary of social and rehabilitation services, a temporary
34 permit to operate for a period not to exceed 90 days upon receipt of an
35 initial application for license. The secretary of health and environment
36 may extend, without the approval of the secretary of social and rehabili-
37 tation services, the temporary permit to operate for an additional period
38 not to exceed 90 days if an applicant is not in full compliance with the
39 requirements of this act but has made efforts towards full compliance.

40 (b) (1) In all cases where the secretary of social and rehabilitation
41 services deems it necessary, an investigation of the maternity center or
42 child care facility shall be made under the supervision of the secretary of
43 social and rehabilitation services or other designated qualified agents. For

1 that purpose and for any subsequent investigations they shall have the
2 right of entry and access to the premises of the center or facility and to
3 any information deemed necessary to the completion of the investigation.
4 In all cases where an investigation is made, a report of the investigation
5 of such center or facility shall be filed with the secretary of health and
6 environment.

7 (2) In cases where neither approval or disapproval can be given within
8 a period of 30 days following formal request for such a study, the secretary
9 of health and environment may issue a temporary license without fee
10 pending final approval or disapproval of the center or facility.

11 (c) Whenever the secretary of health and environment refuses to
12 grant a license to an applicant, the secretary shall issue an order to that
13 effect stating the reasons for such denial and within five days after the
14 issuance of such order shall notify the applicant of the refusal. Upon
15 application not more than 15 days after the date of its issuance a hearing
16 on the order shall be held in accordance with the provisions of the Kansas
17 administrative procedure act.

18 (d) When the secretary of health and environment finds upon inves-
19 tigation or is advised by the secretary of social and rehabilitation services
20 that any of the provisions of this act or the provisions of K.S.A. 59-2123
21 and amendments thereto are being violated, or that the maternity center
22 or child care facility is maintained without due regard to the health, *safety*,
23 comfort or welfare of ~~the any woman, child or~~ residents, the secretary of
24 health and environment, after giving notice and conducting a hearing in
25 accordance with the provisions of the Kansas administrative procedure
26 act, ~~shall~~ *may* issue an order revoking such license. The order shall clearly
27 state the reason for the revocation.

28 (e) If the secretary revokes ~~or refuses to renew~~ a license, the licensee
29 who had a license revoked ~~or not renewed~~ shall not be eligible to apply
30 for a license or for a certificate of registration to maintain a family day
31 care home under K.S.A. 65-518 and amendments thereto for a period of
32 ~~one year~~ *three years* subsequent to the date such revocation ~~or refusal to~~
33 ~~renew~~ becomes final.

34 (f) Any applicant or licensee aggrieved by a final order of the secretary
35 of health and environment denying or revoking a license under this act
36 may appeal the order in accordance with the act for judicial review and
37 civil enforcement of agency actions.

38 Sec. 2. On and after July 1, 2008, K.S.A. 65-505 is hereby amended
39 to read as follows: 65-505. (a) The ~~annual~~ fee for a license to conduct a
40 maternity center or child care facility shall be *paid every three years and*
41 fixed by the secretary of health and environment by rules and regulations
42 in an amount not exceeding the following:

43 (1) For a maternity center, ~~\$75~~ \$225;

- 1 (2) for a child placement agency, ~~\$75~~ \$225;
2 (3) for a child care resource and referral agency, ~~\$75~~ \$225; and
3 (4) for any other child care facility, ~~\$35~~ \$105 plus ~~\$1~~ \$3 times the
4 maximum number of children authorized under the license to be on the
5 premises at any one time.

6 The license fee shall be paid to the secretary of health and environment
7 when the license is applied for ~~and annually~~. *A complete application to*
8 *renew the license and fee shall be filed every three years* thereafter. The
9 fee shall not be refundable. No fee shall be charged for a license to
10 conduct a home for children which is a family foster home as defined in
11 K.A.R. 28-4-311, and amendments thereto. Fees in effect under this sub-
12 section (a) immediately prior to the effective date of this act shall continue
13 in effect on and after the effective date of this act until a different fee is
14 established by the secretary of health and environment by rules and reg-
15 ulations under this subsection.

16 (b) Any person who fails to renew the person's license within the time
17 required by rules and regulations of the secretary shall pay to the secretary
18 a late renewal fee ~~of \$10~~ *in an amount not exceeding \$75 fixed by the*
19 *secretary by rules and regulations. If the complete application to renew*
20 *the license and license fee are not submitted prior to the renewal date,*
21 *then such license is automatically canceled.*

22 (c) Any licensee applying for an amended license shall pay to the
23 secretary of health and environment a fee established by rules and reg-
24 ulations of the secretary in an amount not exceeding \$35.

25 (d) The secretary of health and environment shall remit all moneys
26 received by the secretary from fees under the provisions of this section
27 to the state treasurer in accordance with the provisions of K.S.A. 75-4215,
28 and amendments thereto. Upon receipt of each such remittance, the state
29 treasurer shall deposit the entire amount in the state treasury to the credit
30 of the state general fund.

31 Sec. 3. K.S.A. 65-521 is hereby amended to read as follows: 65-521.

32 (a) The secretary may deny, revoke or refuse to renew a certificate of
33 registration upon a determination by the secretary that the registrant fal-
34 sified information on the application, *the safety evaluation form* or will-
35 fully and substantially has violated K.S.A. 65-516 through 65-522, and
36 amendments thereto *or any rules and regulations adopted by the secre-*
37 *tary pursuant to K.S.A. 65-522, and amendments thereto*. The secretary
38 shall not revoke or refuse to renew any certificate without first giving
39 notice and conducting a hearing in accordance with the provisions of the
40 Kansas administrative procedure act.

41 (b) If the secretary revokes or refuses to renew a certificate of reg-
42 istration, the registrant who has had a certificate of registration revoked
43 or not renewed shall not be eligible to apply for a certificate of registration

1 or for a license to maintain a child care facility under K.S.A. 65-504 and
2 amendments thereto for a period of ~~one year~~ *three years* subsequent to
3 the date such revocation or refusal to renew becomes final.

4 Sec. 4. K.S.A. 65-522 is hereby amended to read as follows: 65-522.
5 The secretary shall adopt rules and regulations to implement the regis-
6 tration provisions of K.S.A. 65-516 ~~to 65-522 through 65-531, and amend-~~
7 *ments thereto*, inclusive.

8 Sec. 5. K.S.A. 65-523 is hereby amended to read as follows: 65-523.
9 The secretary may suspend, *modify or restrict* any license, certificate of
10 registration ~~or~~, temporary permit *or any term or terms thereof* issued
11 under the provisions of K.S.A. 65-501 through 65-522, and amendments
12 thereto, upon any of the following grounds and in the manner provided
13 in this act:

14 (a) Violation by the licensee, registrant or holder of a temporary per-
15 mit of any provision of this act or of the rules and regulations promulgated
16 under this act;

17 (b) aiding, abetting or permitting the violating of any provision of this
18 act or of the rules and regulations promulgated under this act;

19 (c) conduct in the operation or maintenance, or both the operation
20 and maintenance, of a child care facility or family day care home which
21 is inimical to health, welfare or safety of either an individual in or receiv-
22 ing services from the facility or home or the people of this state;

23 (d) the conviction of a licensee, registrant or holder of a temporary
24 permit, at any time during licensure or registration or during the time
25 the temporary permit is in effect, of crimes as defined in K.S.A. 65-516
26 and amendments thereto; and

27 (e) a third or subsequent violation by the licensee, registrant or holder
28 of a temporary permit of subsection (b) of K.S.A. 65-530 and amendments
29 thereto.

30 Sec. 6. K.S.A. 65-524 is hereby amended to read as follows: 65-524.

31 *(a) The secretary may issue an order prohibiting new admissions into any*
32 *child care facility or family day care home, prior to any hearing when,*
33 *in the opinion of the secretary, the action is necessary to protect any child*
34 *in the child care facility or family day care home from physical or mental*
35 *abuse, abandonment or any other substantial threat to health or safety.*

36 *(b) The secretary may suspend any license, certificate of registration*
37 *or temporary permit issued under the provisions of K.S.A. 65-501 through*
38 *65-522, and amendments thereto, prior to any hearing when, in the opin-*
39 *ion of the secretary, the action is necessary to protect any child in the*
40 *child care facility or family day care home from physical or mental abuse,*
41 *abandonment or any other substantial threat to health or safety. Admin-*
42 *istrative proceedings under this section shall be conducted in accordance*
43 *with the emergency adjudicative proceedings of the Kansas administrative*

1 ~~procedure act and in accordance with other relevant provisions of the~~
2 ~~Kansas administrative procedure act.~~

3 *(c) Administrative proceedings pursuant to subsections (a) and (b)*
4 *shall be conducted in accordance with the emergency adjudicative pro-*
5 *ceedings of the Kansas administrative procedure act and in accordance*
6 *with other relevant provisions of the Kansas administrative procedure act.*

7 Sec. 7. K.S.A. 2006 Supp. 65-526 is hereby amended to read as fol-
8 lows: 65-526. (a) The secretary of health and environment, in addition to
9 any other penalty prescribed under article 5 of chapter 65 of the Kansas
10 Statutes Annotated, and amendments thereto, may assess a civil fine, after
11 proper notice and an opportunity to be heard in accordance with the
12 Kansas administrative procedure act, against a licensee or registrant for
13 each violation of such provisions or rules and regulations adopted pur-
14 suant thereto which affect significantly and adversely the health, safety
15 or sanitation of children in a child care facility or family day care home.
16 Each civil fine assessed under this section shall not exceed \$500. In the
17 case of a continuing violation, every day such violation continues shall be
18 deemed a separate violation.

19 (b) All fines assessed and collected under this section shall be remit-
20 ted to the state treasurer in accordance with the provisions of K.S.A. 75-
21 4215, and amendments thereto. Upon receipt of each such remittance,
22 the state treasurer shall deposit the entire amount in the state treasury
23 to the credit of the state general fund.

24 Sec. 8. K.S.A. 65-504, 65-521, 65-522, 65-523 and 65-524 and K.S.A.
25 2006 Supp. 65-526 are hereby repealed.

26 Sec. 9. On July 1, 2008, K.S.A. 65-505 is hereby repealed.

27 Sec. 10. This act shall take effect and be in force from and after its
28 publication in the statute book.