

HOUSE BILL No. 2972

By Committee on Federal and State Affairs

3-17

9 AN ACT concerning child care facilities and family day care homes; in-
10 spections and assessments; amending K.S.A. 65-501, 65-508, 65-512,
11 65-520, 65-522 and 72-8236 and repealing the existing sections.
12

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

14 Section 1. K.S.A. 65-501 is hereby amended to read as follows: 65-
15 501. It shall be unlawful for any person, firm, corporation or association
16 to conduct or maintain a maternity center or a child care facility for chil-
17 dren under 16 years of age without having a license or temporary permit
18 therefor from the secretary of health and environment. ~~Nothing in this~~
19 ~~act shall~~ *The provisions of K.S.A. 65-501 et seq., and amendments thereto,*
20 *shall not apply to:*

21 (a) A residential facility or hospital that is operated and maintained
22 by a state agency as defined in K.S.A. 75-3701, and amendments thereto;
23 ~~or~~

24 (b) a summer instructional camp that:

25 (1) Is operated by a Kansas educational institution as defined in
26 K.S.A. 74-32,120, and amendments thereto, or a postsecondary educa-
27 tional institution as defined in K.S.A. 74-3201b, and amendments thereto;

28 (2) is operated for not more than five weeks;

29 (3) provides instruction to children, all of whom are 10 years of age
30 and older; and

31 (4) is accredited by an agency or organization acceptable to the sec-
32 retary of health and environment; *or*

33 (c) *any facility, program or service operated by the board of educa-*
34 *tion of a school district or the governing authority of an accredited non-*
35 *public school, if the board or governing body certifies annually, by reso-*
36 *lution, that such facility, program or service:*

37 (1) *Is supervised by a teacher who holds a certificate to teach and an*
38 *administrator who holds a school administrator's certificate issued by the*
39 *state board of education pursuant to law;*

40 (2) *conducts, through the Kansas bureau of investigation, criminal*
41 *background checks on all staff members upon hiring;*

42 (3) *provides classroom space comparable to that afforded other dis-*
43 *trict programs;*

1 (4) *is offered at a site located on property owned or leased by the*
2 *school district or the accredited nonpublic school and which property*
3 *complies with required building and fire codes;*

4 (5) *maintains staff and student records and emergency contact infor-*
5 *mation; and*

6 (6) *assists students to achieve academic performance at or above state*
7 *standards.*

8 *A copy of such resolution shall be sent to the secretary on or before*
9 *November 1 of each year.*

10 Sec. 2. K.S.A. 65-508 is hereby amended to read as follows: 65-508.

11 (a) Any maternity center or child care facility subject to the provisions of
12 this act shall: (1) Be properly heated, plumbed, lighted and ventilated;
13 (2) have plumbing, water and sewerage systems which conform to all
14 applicable state and local laws; and (3) be operated with strict regard to
15 the health, comfort, safety and social welfare of the residents.

16 (b) Every maternity center or child care facility shall furnish or cause
17 to be furnished for the use of each resident and employee individual
18 towel, wash cloth, comb and individual drinking cup or sanitary bubbling
19 fountain, and toothbrushes for all other than infants, and shall keep or
20 require such articles to be kept at all times in a clean and sanitary con-
21 dition. Every maternity center or child care facility shall comply with all
22 applicable fire codes and rules and regulations of the state fire marshal.

23 (c) The secretary of health and environment with the cooperation of
24 the secretary of social and rehabilitation services shall develop and adopt
25 rules and regulations for the operation and maintenance of maternity
26 centers and child care facilities. The rules and regulations for operating
27 and maintaining maternity centers and child care facilities shall be de-
28 signed to promote the health, safety and welfare of the residents who are
29 to be served in such facilities by ensuring safe and adequate physical
30 surroundings, healthful food, supervision and care of the residents by
31 capable, qualified persons of sufficient number, an adequate program of
32 activities and services and such appropriate parental participation as may
33 be feasible under the circumstances. Boarding schools are excluded from
34 requirements regarding the number of qualified persons who must su-
35 pervise and provide care to residents. *Any limitations on sleeping distance*
36 *for children in child care facilities shall not apply to twins or other mul-*
37 *tiple birth children when so requested in writing by a parent or guardian.*

38 (d) Each child cared for in a child care facility, including children of
39 the person maintaining the facility, shall be required to have current such
40 immunizations as the secretary of health and environment considers nec-
41 essary. The person maintaining a child care facility shall maintain a record
42 of each child's immunizations and shall provide to the secretary of health
43 and environment such information relating thereto, in accordance with

1 rules and regulations of the secretary, but the person maintaining a child
2 care facility shall not have such person's license revoked solely for the
3 failure to have or to maintain the immunization records required by this
4 subsection.

5 (e) The immunization requirement of subsection (d) shall not apply
6 if one of the following is obtained:

7 (1) Certification from a licensed physician stating that the physical
8 condition of the child is such that immunization would endanger the
9 child's life or health; or

10 (2) a written statement signed by a parent or guardian that the parent
11 or guardian is an adherent of a religious denomination whose teachings
12 are opposed to immunizations.

13 Sec. 3. K.S.A. 65-512 is hereby amended to read as follows: 65-512.
14 ~~It is hereby made the duty of~~ (a) The secretary of health and environment
15 ~~to shall~~ inspect or cause to be inspected at least once every 12 months
16 every maternity center or child care facility, and for that purpose ~~it~~ shall
17 have the right of entry and access thereto in every department and, *except*
18 *as provided in subsection (b)*, to every place in the premises, shall call for
19 and examine the records which are required to be kept by the provisions
20 of this act and shall make and preserve a record of every inspection. The
21 licensee shall give all reasonable information to the authorized agent of
22 the secretary of health and environment and shall afford every reasonable
23 facility for viewing the premises and seeing the patients or children
24 therein. No such patient or child without the consent of the patient or
25 child shall be required to be interviewed by any agent unless the agent is
26 an authorized person or a licensed physician.

27 (b) (1) *Every inspection of a child care facility under this section shall*
28 *be conducted in a courteous and professional manner. Inspections shall*
29 *be administered in a manner so that all facilities inspected are treated*
30 *fairly and inspected on an equal basis without a quota for citations. No*
31 *inspection shall be conducted in areas of the facility not used for business*
32 *purposes, unless the inspector is accompanied by the licensee or person*
33 *in charge of the facility.*

34 (2) *Any inspector who violates a provision of this subsection (b) shall*
35 *be subject to discipline.*

36 Sec. 4. K.S.A. 65-520 is hereby amended to read as follows: 65-520.
37 (a) A certificate of registration shall be in force for one year after the date
38 of issuance unless revoked pursuant to K.S.A. 65-521. The certificate shall
39 specify that the registrant may operate a family day care home for six or
40 fewer children. This section shall not be construed to limit the right of
41 the secretary to enter a registered family day care home for the purpose
42 of assessing compliance with K.S.A. 65-516 to 65-522, inclusive, after
43 receiving a complaint against the registrant of such home.

1 (b) *Every assessment of a family day care home under this section*
2 *shall be conducted in a courteous and professional manner. Assessments*
3 *shall be administered in a manner so that all homes assessed are treated*
4 *fairly and assessed on an equal basis without a quota for citations. No*
5 *assessments shall be conducted in areas of the home not used for business*
6 *purposes, unless the person conducting the assessment is accompanied by*
7 *the person registered to operate the home or person in charge of the home.*

8 Sec. 5. K.S.A. 65-522 is hereby amended to read as follows: 65-522.
9 The secretary shall adopt rules and regulations to implement the regis-
10 tration provisions of K.S.A. 65-516 to 65-522, inclusive. *Any limitation on*
11 *sleeping distances for children in family day care homes shall not apply*
12 *to twins or other multiple birth children when so requested in writing by*
13 *a parent or guardian.*

14 New Sec. 6. Pursuant to this act, the secretary of health and envi-
15 ronment shall adopt rules and regulations to provide:

16 (1) A code of conduct for inspectors which includes a process for the
17 discipline of inspectors and termination of inspectors in appropriate
18 circumstances;

19 (2) a special rule dealing with twin or other multiple birth children
20 who are in day care facilities;

21 (3) provisions to allow for double the capacity of children in each
22 category in a family day care home if there is a additional adult caregiver
23 and if the home has appropriate the amount of space available; and

24 (4) the definition of a five year old child shall reflect the child's
25 birthdate.

26 Sec. 7. K.S.A. 72-8236 is hereby amended to read as follows: 72-
27 8236. (a) The board of education of any school district may: (1) Establish,
28 operate and maintain a child care facility; (2) enter into cooperative or
29 interlocal agreements with one or more other boards for the establish-
30 ment, operation and maintenance of a child care facility; (3) contract with
31 private, nonprofit corporations or associations or with any public or pri-
32 vate agency or institution, whether located within or outside the state, for
33 the establishment, operation and maintenance of a child care facility; and
34 (4) prescribe and collect fees for providing care at a child care facility.

35 (b) Fees for providing care at a child care facility established under
36 authority of this section shall be prescribed and collected only to recover
37 the costs incurred as a result of and directly attributable to the establish-
38 ment, operation and maintenance of the child care facility. Revenues from
39 fees collected by a board under this section shall be deposited in the
40 general fund of the school district and shall be considered reimburse-
41 ments to the district for the purpose of the school district finance and
42 quality performance act and may be expended whether the same have
43 been budgeted or not and amounts so expended shall not be considered

1 operating expenses.

2 (c) *Except as provided in K.S.A. 65-501, and amendments thereto,*
3 every school district which establishes, operates and maintains a child care
4 facility shall be subject to the provisions contained in article 5 of chapter
5 65 of Kansas Statutes Annotated.

6 (d) As used in this section, the term "child" means any child who is
7 three years of age or older, and any infant or toddler whose parent or
8 parents are pupils or employees of a school district which establishes,
9 operates and maintains, or cooperates in the establishment, operation and
10 maintenance of, a child care facility under authority of this act.

11 Sec. 8. K.S.A. 65-501, 65-508, 65-512, 65-520, 65-522 and 72-8236
12 are hereby repealed.

13 Sec. 9. This act shall take effect and be in force from and after its
14 publication in the statute book.