

HOUSE BILL No. 2220

By Committee on Health and Human Services

2-3

9 AN ACT concerning child care; relating to certain licensed and regis-
10 tered facilities; amending K.S.A. 65-504, 65-505, 65-521, 65-522, 65-
11 523 and 65-524 and K.S.A. 2008 Supp. 65-526 and repealing the ex-
12 isting sections.
13

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

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

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

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

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

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

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

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

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

40 Sec. 2. K.S.A. 65-505 is hereby amended to read as follows: 65-505.

41 (a) The ~~annual~~ fee for a license to conduct a maternity center or child
42 care facility shall be *paid every three years and* fixed by the secretary of
43 health and environment by rules and regulations in an amount not ex-

1 ceeding the following:

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

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

18 (b) *If the complete application to renew a license and the license fee*
 19 *are not submitted prior to the renewal date, then such registration or*
 20 *license is automatically canceled.* Any person ~~who fails to renew the per-~~
 21 ~~son's license within the time required by rules and regulations of the~~
 22 ~~secretary shall pay~~ *whose license is automatically canceled for reasons*
 23 *stated above, within 30 days of cancellation, may have their license re-*
 24 *instated upon submission of proof of compliance with the renewal require-*
 25 *ments, payment of all applicable fees and payment of a late renewal fee*
 26 *to the secretary a late renewal fee of \$10 in an amount not exceeding \$75*
 27 *fixed by the secretary by rules and regulations.*

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

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

37 (e) *Fees in effect under this section immediately prior to the effective*
 38 *date of this act shall continue in effect until a different fee is established*
 39 *by the secretary of health and environment by rules and regulations as*
 40 *authorized under this section.*

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

42 (a) The secretary may deny, revoke or refuse to renew a certificate of
 43 registration upon a determination by the secretary that the registrant fal-

1 sified information on the application, *the safety evaluation form* or will-
2 fully ~~and~~, *repeatedly* or substantially has violated K.S.A. 65-516 through
3 65-522, and amendments thereto *or any rules and regulations adopted*
4 *by the secretary pursuant to K.S.A. 65-522, and amendments thereto*. The
5 secretary shall not revoke or refuse to renew any certificate without first
6 giving notice and conducting a hearing in accordance with the provisions
7 of the Kansas administrative procedure act.

8 (b) If the secretary revokes or refuses to renew a certificate of reg-
9 istration, the registrant who has had a certificate of registration revoked
10 or not renewed shall not be eligible to apply for a certificate of registration
11 or for a license to maintain a child care facility under K.S.A. 65-504 and
12 amendments thereto for a period of ~~one year~~ *three years* subsequent to
13 the date such revocation or refusal to renew becomes final.

14 Sec. 4. K.S.A. 65-522 is hereby amended to read as follows: 65-522.
15 The secretary shall adopt rules and regulations to implement the regis-
16 tration provisions of K.S.A. 65-516 ~~to 65-522, inclusive~~ *through 65-531,*
17 *and amendments thereto*.

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

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

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

29 (c) conduct in the operation or maintenance, or both the operation
30 and maintenance, of a *maternity center*, child care facility or family day
31 care home which is inimical to health, welfare or safety of either an in-
32 dividual in or receiving services from the *maternity center*, *child care*
33 *facility* or *family day care* home or the people of this state;

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

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

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

42 (a) *The secretary may issue an order prohibiting new admissions into any*
43 *child care facility or family day care home prior to any hearing when, in*

1 *the opinion of the secretary, the action is necessary to protect any child*
2 *in the child care facility or family day care home from physical or mental*
3 *abuse, abandonment or any other substantial threat to health or safety.*

4 (b) *The secretary may restrict or modify the terms of a license or*
5 *certificate of registration, prior to any hearing, including, but not limited*
6 *to, a modification or restriction based on age of children, number of chil-*
7 *dren or type of unit, when, in the opinion of the secretary, the action is*
8 *necessary to protect any child in the child care facility or family day care*
9 *home from physical or mental abuse, abandonment or any other substan-*
10 *tial threat to health or safety.*

11 (c) The secretary may suspend any license, certificate of registration
12 or temporary permit issued under the provisions of K.S.A. 65-501 through
13 65-522, and amendments thereto, prior to any hearing when, in the opin-
14 ion of the secretary, the action is necessary to protect any child in the
15 child care facility or family day care home from physical or mental abuse,
16 abandonment or any other substantial threat to health or safety. ~~Admin-~~
17 ~~istrative proceedings under this section shall be conducted in accordance~~
18 ~~with the emergency adjudicative proceedings of the Kansas administrative~~
19 ~~procedure act and in accordance with other relevant provisions of the~~
20 ~~Kansas administrative procedure act.~~

21 (d) *Administrative proceedings pursuant to subsections (a), (b) and*
22 *(c) shall be conducted in accordance with the emergency adjudicative*
23 *proceedings of the Kansas administrative procedure act and in accordance*
24 *with other relevant provisions of the Kansas administrative procedure act.*

25 Sec. 7. K.S.A. 2008 Supp. 65-526 is hereby amended to read as fol-
26 lows: 65-526. (a) The secretary of health and environment, in addition to
27 any other penalty prescribed under article 5 of chapter 65 of the Kansas
28 Statutes Annotated, and amendments thereto, may assess a civil fine, after
29 proper notice and an opportunity to be heard in accordance with the
30 Kansas administrative procedure act, against a licensee or registrant for
31 each violation of such provisions or rules and regulations adopted pur-
32 suant thereto which affect ~~significantly and adversely~~ the health, safety
33 or sanitation of ~~children~~ *any woman, child or resident in a maternity*
34 *center, child care facility or family day care home.* Each civil fine assessed
35 under this section shall not exceed \$500. In the case of a continuing
36 violation, every day such violation continues shall be deemed a separate
37 violation.

38 (b) All fines assessed and collected under this section shall be remit-
39 ted to the state treasurer in accordance with the provisions of K.S.A. 75-
40 4215, and amendments thereto. Upon receipt of each such remittance,
41 the state treasurer shall deposit the entire amount in the state treasury
42 to the credit of the state general fund.

43 Sec. 8. K.S.A. 65-504, 65-505, 65-521, 65-522, 65-523 and 65-524

- 1 and K.S.A. 2008 Supp. 65-526 are hereby repealed.
- 2 Sec. 9. This act shall take effect and be in force from and after its
- 3 publication in the statute book.