

Approved 3-22-88  
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by SENATOR ROY M. EHRLICH at  
Chairperson

10:00 a.m./~~p.m.~~ on March 14, 1988 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Emalene Correll, Legislative Research  
Bill Wolff, Legislative Research  
Norman Furse, Revisors Office  
Clarene Wilms, Committee Secretary

Conferees appearing before the committee:

Richard Morrissey, Director, Bureau of Adult and Child Care  
Elizabeth Taylor, Kansas Association of Local Health Departments  
Dr. Darrell Newkirk, Wyandotte County Health Department

The chairman called the meeting to order and requested approval or correction on the minutes of February 29, March 1, 2, 3 and 4 that were presented to the committee on Monday, March 7, 1988. Senator Bond made the motion to accept the minutes as presented and Senator Anderson seconded the motion. The motion carried.

Chairman Ehrlich stated that the decision had been made to put SB-609 into a subcommittee. Contrary to minutes of a special meeting held March 9 between Senator Ehrlich, Senator Bond and Senator Francisco, Senator Vidricksen was named chairman of the subcommittee with Senator Morris and Senator Anderson serving on the subcommittee.

Richard Morrissey appeared in support of SB-678 stating this bill was needed to prevent continued and repeated applications for child care, also to prevent continued child care while a re-application is under consideration.

Discussion followed with concern being expressed as to how this change would affect new applicants. It was felt that if a new applicant completed compliance requirements they should not have to wait a year to open their business. Concern was expressed about the impact to the consumer when child care services were unable to continue business for a year. The possibility of fines was also discussed. The concensus of the committee was to request staff to draw up a balloon bill considering the assessment of civil penalties, also setting up a time frame for compliance. The suggestion was made to use an "and/or" wording so that governing agencies could pick and choose the most effective way to handle the situation. Attachment 1

Elizabeth Taylor appeared in support of SB-725. Ms. Taylor stated that after HB-3105 passed in 1986 setting the mill levy at 2 mills, it was assumed the 2 mills would be over and above the existing mill levy.

Dr. Darrell Newkirk spoke in support of SB-725, stating a need for flexibility to be able to levy up to 2 mills. The 1986 amendments were interpreted that levies could be set at under 1 mill and the ability to levy has actually been cut in a number of counties due to the fact that the mill levy was already established at a level higher than one mill. Whether or not it is intended that the additional levies be out from under the tax lid is still to be determined. The state audit section decided to interpret the language, lines 72, 75-76, as saying any levy under one mill was not out from under the tax lid. An Attorney General's opinion was requested. The preponderance of opinion was that the intention was

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE,  
room 526-S Statehouse, at 10:00 a.m./~~p.m.~~ on March 14, 1988

that the entire levy was to be out from under the tax lid. A check is needed to ascertain what the progress on the Attorney General's opinion has been.

The meeting adjourned at 10:38 a.m. and will convene at 10:00 a.m. on Tuesday, March 15, 1988 in room 526-S.

SENATE  
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE March 14, 1988

(PLEASE PRINT)  
NAME AND ADDRESS

ORGANIZATION

ELIZABETH E. TAYLOR - TOPICKA

Ks Assoc of Local Health Depts

Danton B. Rice

SOS.

RICHARD MORRISSEY

KDAR

Dr. Behr

Ks Assoc Prof. Psychiatrists  
CHRISTIAN SCIENCE COMMITTEE  
ON PUBLICATION FOR KANSAS

KEITH & LANDIS

Tom Burgess

Affiliated Fitness Centers

DARRYL NEWKIRK MD

KCK - Wyandotte Co. Health Dept.

Carl Schmitthener

Ks Dental Assoc

STATE OF KANSAS



DEPARTMENT OF HEALTH AND ENVIRONMENT

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Mike Hayden, *Governor*

Stanley C. Grant, Ph.D., *Secretary*  
Gary K. Hulett, Ph.D., *Under Secretary*

Testimony Presented to

Senate Public Health and Welfare Committee

by

The Kansas Department of Health and Environment

Senate Bill 678

Maternity Hospitals or Homes and Homes for  
Children. Amending K.S.A. 65-504 and 65-519

Background

The Kansas Department of Health and Environment frequently revokes a license or certificate of registration only to have the licensee/registrant immediately submit a new application with no interruption of child care. Health and safety violations continue, necessitating further legal action. The proposed amendments would authorize the Secretary to refuse to grant a license or certificate of registration for one year following revocation or denial of application. The intent of the proposed amendments is to achieve greater compliance with licensing/registration requirements. Benefits would include (1) greater protection of children; (2) greater stability of child care resources in the community; (3) fewer legal proceedings; (4) less staff time involved with problem facilities, both at the local and state level; (5) local and state resources freed for other activities such as recruiting, training and monitoring child care facilities; and (6) child care upgraded as a profession.

Examples

Registered Provider - Statute limits the number to 6 children in care at any one time. A complaint investigation revealed eleven children under school age in care. The certificate was revoked. The provider applied for a license while continuing to provide child care. However, overenrollment continued which necessitated further legal action.

Child Care Center (60 children) - Reapplication was denied due to continuous overenrollment, violation of staff/child ratios, and health and safety

violations. The center continued to operate pending submission of a new application and relicensing. Violations leading to denial continued to exist, requiring further legal action.

Group Day Care Home (12 Children) - A notice of Intent to Revoke was issued based on validation of child abuse. Before an administrative hearing with SRS was held on the child abuse issue, the facility was found to be overenrolled. A second Notice was issued. The Hearing Officer found for the Department and the Secretary issued the Final Order. The provider reapplied the following week. Child care was never terminated. (Validation was withdrawn by SRS.)

Child Care Center (24 children) - A notice of Intent to Revoke was issued based on many environmental deficiencies. The Hearing Officer upheld the Department action. The center continued to provide child care. The center owner reapplied after being ordered to by a district judge. No environmental violations had been corrected, which necessitated another Notice of Intent and Administrative Hearing.

#### Recommendation

We support passage of this bill.

Presented by:

Richard J. Morrissey  
Director, Bureau of Adult and Child Care  
March 14, 1988

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT  
BUREAU OF ADULT AND CHILD CARE

LICENSING AND REGISTRATION  
OF CHILD CARE IN KANSAS

I. INTRODUCTION

The original licensing law which was passed in 1919 placed the licensing authority with the Kansas Department of Health and Environment. The Department administers the licensing law as a preventive program to assure that out-of-home care for children and maternity patients will not be exploitive, unsafe or unhealthy. Basically, the main purpose of the law is to protect the health, safety and welfare of children receiving care away from their parents and home. It is also a consumer protection law assuring parents that the care they are paying for meets minimum standards of good care.

Licensure or registration (depending on the number of children in care) is required regardless of the motivation for providing care, and whether or not there is advertisement of or payment for services. The essential fact is that a child or children receive care away from their own homes.

Registration or licensing is not required as follows:

- 1) When child care is provided for not more than two children for not more than 20 hours per week and the home has not been closed as a result of enforcement action.\* Total time is determined by adding the hours each child is cared for weekly.
- 2) When irregular child care is arranged between friends and neighbors on an exchange basis.
- 3) When child care is provided in the child's own home.
- 4) When child care is provided in the home of the child's relative.

II. CATEGORIES OF CHILD CARE

A. DAY CARE (less than 24 hours per day)

1. Licensed Day Care Home (K.A.R. 28-4-113 et seq.)

"Licensed day care home" means a home in which care is provided for a maximum of 10 children under 14 years of age, not more than six of whom are under kindergarten age. This total includes children under 14 years of age related to the provider.

2. Group Day Care Home (K.A.R. 28-4-113 et seq.)

"Group Day care home" means a home in which care is provided for a maximum of 12 children under 14 years of age. This total includes children under 14 years of age related to the provider.

3. Registered Family Day Care Home (K.S.A. 65-517 et seq.)

"Registered family day care home" means the family's own residence in which care is provided by the applicant for not more than six children from birth to 16 years of age with not more than three children under 18 months of age. All children under 16 years of age related to the provider are included in the total (Legislation effective 7-1-80).

4. Child Care Centers/Preschools (K.A.R. 28-4-420 et seq.)

a. "Child care center" means a facility in which care and educational activities are provided for 13 or more children two weeks to 16 years of age for more than three hours and less than 24 hours per day including day time, evening, and nighttime care, or which provides before and after school care for school-age children. A facility may have fewer than 13 children and be licensed as a center if the program and building meet child care center regulations.

b. "Preschool" means a facility:

1. which provides learning experiences for children who have not attained the age of eligibility to enter kindergarten prescribed in K.S.A. 72-1107(c) and any amendments thereto, and who are 30 months of age or older;
2. which conducts sessions not exceeding three hours per session;

3. which does not enroll any child more than one session per day; and
  4. which does not serve a meal. The term "preschool" shall include educational preschools, Montessori schools, nursery schools, church-sponsored preschools, and cooperatives. A preschool may have fewer than 13 children and be licensed as a preschool if the program and facility meet preschool regulations.
- c. In lieu of being licensed, preschools operated in the same building as private schools providing kindergarten through grade six shall be governed by Kansas statutes applicable to private schools.

B. RESIDENTIAL CARE

1. Family Foster Home (K.A.R. 28-4-311 et seq.) -- Twenty-four hour family care for one to four children.
2. Group Boarding Home (K.A.R. 28-4-268 et seq.) -- Twenty-four hour nonsecure care for five to ten children.
3. Residential Center (K.A.R. 28-4-268 et seq.) -- Twenty-four hour nonsecure care for over ten children.

The State Department of Health and Environment does not place children in residential care. Children are placed by parents, by a public agency such as Social and Rehabilitation Services, or by a private child placing agency licensed to perform a placement service.

C. SPECIAL CATEGORIES OF SERVICE REQUIRING A LICENSE

1. Child Placing Agency (K.A.R. 28-4-170 et seq.) -- A social service agency which receives children for services including placement in institutions or in foster family homes for adoption.
2. Maternity Care (K.A.R. 28-4-268 et seq.) -- Residential care which includes services to females during pregnancy.
3. Maternity Center or Hospital (K.A.R. 28-4-370 et seq.) -- A facility not licensed as a medical hospital, which provides delivery services for normal, uncomplicated pregnancies.
4. Detention Center (K.A.R. 28-4-350 et seq.) -- A secure facility designed specifically for children and youth who require a secure setting, and which provides temporary living accommodations for children and youth taken into custody pending court disposition or placement in an appropriate program.
5. Day Care Referral Agency (K.A.R. 28-4-185 et seq.) -- An association, organization, individual or corporation receiving, caring for, and finding homes for children under 16 years of age who need day care.

D. FURTHER INFORMATION:

1. Health certificates are required for all adults in contact with children, and all family members over sixteen years of age living in the home.
2. Medical records on all children and youth in care must be on file at the child care facility.
- \*3. The Secretary of the Kansas Department of Health and Environment may suspend, deny or revoke a license or a certificate of registration for violation of regulations or the Child Care Licensing Laws.

Information about licensing procedures and copies of regulations may be obtained from the county health departments (address under county government) or by writing Child Care Licensing Registration Section, Bureau of Adult and Child Care, Kansas Department of Health and Environment, 10th Floor, Landon State Office Building, 900 SW Jackson, Suite 1001, Topeka, Kansas 66620-0001. Telephone number (913) 296-1270.