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(LRF)

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MEMORANDUM

To: Chairperson Erickson and Senate Committee on Commerce
From: Charles Reimer, Office of Revisor of Statutes
Date: 3/8/2023
Subject: SB 282

SB 282 modifies and places into statute a number of regulations governing day care centers. The bill also adds some new terms and accompanying changes to the law.

The primary focus of the bill is on provisions that would regulate child care centers, day care homes and group day care homes. These terms are defined in section 9 on pages 14 and 15.

“Child care center” means “a facility that meets child care center regulations and provides care and educational activities for children who are two weeks to 16 years of age for at least three hours but less than 24 hours per day or care before and after school for school-age children.”

“Day care home” means “the premises where care is provided for a maximum of 12 children under 16 years of age, with a limited number of children under five years of age in accordance with section 2 . . .” “Group day care home” means “a premises where care is provided for a maximum of 15 children under 16 years of age, including a limited number of children under five years of age, in accordance with section 2 . . .”

Additional definitions of importance include “infant,” which means “a child who is between two weeks and 12 months of of age or a child older than 12 months of age who has not learned to walk.” “Toddler” means “a child who has learned to walk and is at least 12 but less than 30 months of age or a child who has learned to walk and is at least nine months of age if such child’s parent or guardian consents to such child being considered a toddler for purposes of license capacity and staff-to-child ratios.”

Staff Training and Education Requirements for Child Care Centers

New Section 1, page 1-3, sets training requirements for staff for child care centers. A program director (defined in section 9, page 16) must be at least 18 years old. A child care center must have a program director on the premises.

The training requirements for program directors are based on the number of children enrolled in the child care center, and vary based on centers with fewer than 13 children, 13 to 24 children, and more than 24 children. (Pages 1-2.) Training options include specified teaching experience in a licensed day care facility, specified observation hours and workshops, specified hours of academic credit, or a relevant B.A. or B.S. degree. (Page 2.)

A group leader (defined in section 9, page 15) must also be at least 18 and possess either a high school diploma or equivalent education. A group leader must meet specified experience caring for children in a licensed day care, teaching in a licensed day care, or meet observation and workshop or academic credit hour requirements. (Page 2.)

An assistant group leader (defined in section 9, page 14) must be at least 16 and complete staff orientation at the time of employment. (Page 2.)

Staffing Requirements and Limitations Within a Unit of a Child Care Center

The ages of children within a “unit,” defined as a group of children within a child care center (see page 16), control whether a group leader or assistant group leader must be present and the minimum ages of other staff who may be present. (Page 3.) A unit with at least one infant must have at least one group leader present and may have a staff member present at least 16 years of age. A unit where all children are at least 12 months old must have at least one assistant group leader present and may have a staff member present who is 14. All staff members must be at least 3 years older than the oldest child in the unit. (Page 3.)

Professional Development Training

All staff members are to complete professional development training as determined by the secretary of health and environment but not more than eight hours per year. (Page 3.)

Maximum Limitations on Numbers of Children Permitted Per Care Provider for Day Care Homes and Group Day Care Homes based on Age of the Children

New Section 2 establishes maximum limits on the number of infants and children of specified ages who may be cared for in a day care home and group day care home with respect to the number of providers of care. For example, one provider in a day care home may care for up to 4 infants, 2 children at least 12 months but under 5, and 2 children at least five but under 16. A group day care home with one provider may care for up to 15 children if they are at least five but under 16. (Page 3.) Similar limitations are also set for group day care homes with two providers. (Page 3-4.) Additional rules and exceptions govern how the number of children may be counted and additional children that may be present, including special rules that apply during the academic school year before and after school and during periods before school starts in fall and ends in spring. (Page 4.)

Volunteers

Volunteers may be counted as staff if they complete education and training requirements as set by the secretary. Volunteers must be at least 14. (Page 4.) If working directly with children, volunteers must be 3 years older than the oldest child. Volunteers must be supervised by a staff member.

Preemption

The bill prohibits cities or counties from restricting the maximum number of children for which a day care home or group day care home may be licensed allowed under the bill. (Page 4.)

Minimum Staff-to-Child Ratios and Limitations on Numbers of Children within a Unit for Child Care Centers

New Section 3 sets out permitted minimum ratios of staff members to children in a child care center “unit” (a group of children within a child care center) based on the age of the children. (Note the bill says “day care center” in error.) This section also sets out the maximum number of children that may be within a unit with that specified staff-to-child ratio. (Page 5.) For example, the minimum staff-to-child ratio for infants is 1 to 4 and the maximum number of children per such a unit is 12 and for toddlers the minimum ratio is 1 to 7 and the maximum number of children in such a unit is 14. (Page 5.)

Volunteers

As with day care homes and group day care homes, volunteers may be counted as staff if they meet the same requirements. (Page 5.)

Preemption

Cities and counties may not reduce the ratios of staff to children or the number of children per unit further than as set forth in the bill. (Page 5.)

Additional Requirements for Child Care Centers

New Section 4 provides additional requirements for child care centers. A child care center must meet fire protection, water supply and sewage disposal requirements of the local jurisdiction. (Page 5.) A designated area for children's activities must contain a minimum of 25 square feet of floor space per child. (Page 5.)

Licenses of Day Care Homes or Group Day Care Homes Not Required to Live in the Day Care Home or Group Day Care Home

New section 5 provides that it shall not be a requirement (and the secretary may not require) that as a condition of licensure of a day care home or group day care home that the licensees live in the day care home or group day care home. (Page 6.)

Secretary may Waive any Requirements of Act Upon Request by Licensee

New Section 6 provides the secretary may waive any requirements of the act for a set period of time upon request by a licensee. (Page 6.)

Pilot Programs

New Section 7 allows the secretary to develop and operate a pilot program designed to increase the availability or capacity of day care facilities. Under a pilot program, the secretary may waive the requirements of the act or rules and regulations related to licensure and operation of a day

care facility, including staff requirements. A license under a pilot program may be for up to five years and if the secretary determines the pilot program is successful, for an additional two years. If determined successful, the secretary shall make recommendations for statutory changes and adopt rules and regulations consistent with the findings of the pilot program. (Page 6.) The secretary must submit reports regarding any pilot program to the legislature. (Page 7.)

Amendment to Expedited Licensing Statute for Military Servicemembers and Nonresidents

Section 8 amends K.S.A. 2022 Supp. 48-3406, the statute providing for expedited licensing, registration or certification for military servicepersons and persons intending to establish residency in Kansas to enable such persons to carry on their profession. The bill amends the statute so as to ensure any licensing of individuals by the secretary of health and environment would be covered by the act, not only licensing with respect to K.S.A. 82a-1201 et seq. (Page 13.)

Definitions

Section 9 amends K.S.A. 65-503 to reorder and add definitions pertinent to the act. This section includes definitions for “assistant group leader,” “child care center,” “day care home,” “group day care home,” “group leader,” “infant,” “program director,” “school-age,” “toddler,” and “unit.” (Pages 15-16.)

No Annual License Fee Required

Section 10 amends K.S.A. 65-505 to remove the annual license fee for child care centers, day care homes, and group day care homes. (Page 16.) These facilities must pay a fee of \$75 if they fail to timely renew their license. (Page 17.)

Use of Toothbrushes

Section 11 amends K.S.A. 65-508 to make use of toothbrushes optional. (Page 18.)

Inspection of Facilities

Section 12 amends K.S.A. 65-512 pertaining to inspection of child care facilities by the secretary of health and environment. Effective July 1, 2026, the bill requires inspections of facilities licensed under the act to be conducted by employees of the department of health and environment. The section further provides that the secretary may hire, replace or transition all surveyors or similar employees working for a municipality who conduct inspections of facilities licensed under the act into the unclassified service.

If enacted, the bill would go into effect July 1, 2023.