

Martha Keaton-Ferren
Miss Marty's Nursery School – Day Care Home
5301 Newton Street
Overland Park, KS. 66202

SENATE BILL No. 282 (Both in Support and in Opposition to portions)

March 6, 2023

Dear Madam Chair,

My name is Martha Keaton-Ferren and I have been a Licensed Home Day Care Provider since October of 2004. On a daily basis, I provide a high-quality child care experience that not only provides a safe and nurturing environment for each of the children in our mixed-aged group, but offers a children in home-based-style of care that meets each child's emotional and developmental needs and provides their families with peace of mind knowing that I am dedicated to my program and trying hard to comply fully with KDHE Child Care Regulations.

I often have calls from parents looking for infant care – I cannot remember the last time I got a call for toddler care. While that confirms we are in short supply of infant openings, it also confirms my own experience and what I hear from my provider friends:

- Many licensed home providers just no longer offer infant care, or
- They are “taking a break” from infant care, or
- May only be filling one of their spots with an infant.

Maintaining a child care business through a pandemic - even if you love child care - was stressful physically, emotionally and financially. Infant care during the pandemic was exponentially more stressful on providers. Parent's expectations were hard to meet and to manage. You are responsible for the children's health and safety – that responsibility intensified in new ways for provider, we did not close - caring for children via Zoom is not an option. Those of us left are still in recovery – and not just financially.

The Kansas Child Care Crisis isn't new. It started rolling down the hill in 2010 and has only picked up more moss and more speed each year. I've assembled a history of the Child Care Crisis, from the view at the front lines on page 5 and some KDHE numbers to back it up. This crisis has been 13 years in the making. There are people invested with personal agendas, there are people & organizations invested with financial agendas, legislation, regulation, and practices keep on getting passed and implemented adding salt to the wounds providers have been working with for 13 years.

When Lexie's Law passed in 2010, it called for sweeping changes. Some good, some bad, some necessary, some unnecessary. Regulation changes, policies, and practices and more legislation put in place after 2010 further negatively affected for many (I'd say the majority) the relationship between licensees and regulators and also 'child advocacy groups' – I don't think we can ever get close to where it used to be. The sweeping changes which began in 2010 have literally decimated licensed child care in Kansas from the inside out and why I believe we find ourselves in this crisis today.

Lexie's Law - July 2010

July 2010. Lexie's Law required that each new applicant applying for a license to maintain a child care facility must be a high school graduate or the equivalent, such as having a GED. Applicants that applied for licensure before July 1, 2010 were grandfathered from this requirement.

September 2010. Lexie's Law had a requirement to increase licensing fees (overwhelmingly supported by licensees across all facility types despite the significant increases) to fund the additional inspections of the previously classified Registered Family Day Care Homes. Fees increased effective Sept. 1, 2010.

January 2011. Lexie's Law required KDHE to include an actual expiration date on the child care licenses – lobbied for by child care providers during the Committee process for Lexie's Law. KDHE could not afford to reissue licenses every year, so it was determined that a sticker on the face of the license would be sent out. We ended up with new licenses being forwarded, with a sticker bearing an expiration date being forwarded out was forwarded

July 2011. Lexie's Law required the licensed facility category of Registered Family Day Care Homes would be eliminated as a licensed facility category, those providers had to transition into Licensed Day Care Homes by July 2011.

February 2012. Lexie's Law required that the Department (KDHE), through the rules and regulation process, develop requirements for the competent supervision of children and additional health and safety requirements necessary for the protection of children.

November 2018(?). Not part of Lexie's Law. Fingerprinting became mandatory for licensees, those working in child care facilities, and the spouses and other over 18 years of age living in a child care home.

2019(?). The Federal Reauthorization Bill of 2014 specified that 4 hours (hours determined by KDHE) of the Continuing Education for renewal (total of 16) must be in specific "Topic Areas".

2019 (12 hours) 2020 (16 hours) Lexie's Law required new amended regulations pertaining to a significant increase in overall Continuing Education hours required for license renewal. Again, during the Bill process for Lexie's Law, providers overwhelmingly supported increased continuing education hours. Providers even pointed out that ongoing CPR & First Aid Certification (absent from Lexie's Law Bill proposed entirely) would be a great topic for requirement on an ongoing basis. Unfortunately, we lost the ability to self-direct a portion of our continuing education hours through reading (child care / development related topics) and completing a written essay form for our KDHE Surveyor to review at our annual survey and approve for credit hours.

Again, some of the following is from my memory of October 2018 when I researched some KDHE reports for a child care event. Numbers were taken from KDHE CC Licensing FY [X] Total Facility Count and Total Capacity on their website.

Pre Lexie's Law (2009 or 2010) combined totals for Licensed Home and Group Home Day Cares totaled around 12,000 licensees combined - steadily declining every year since, with an over loss in the total numbers of licensed home and group day cares of 70% by 2019 (total of 3,609).

The most recent report on the KDHE site is for 2021 – with a combined total of licensed day care and group day care homes showing further decline to a total of 3,260.

What do I support in SB 282?

I support aligning the age-range of “infant” to be the same across all child care facility types (centers, home day cares and group home day cares) to be “under 12 months of age”.

- By allowing home day care and group home day cares to count infants as “under 12 months of age” vs. the current 18 months of age,
 - **it provides more opportunity for families of multiple young children to access child care at one facility, saving commute time for parent and children, creating continuity in care and enhancing sibling bonds.**
 - **Increases the diversity of care settings and styles that home day cares and group home day care offer families. No two are exactly alike.**
 - It streamlines how we **define infants consistently across all licensed child care facility types.** It is fair for all providers and it less confusing for parents.
 - **Children gain self-confidence, knowledge, and hone their physical skills when they can participate in activities that challenge their current state of development.** Most 12-month-olds are mastering walking, talking, feeding themselves, following simple instructions, and enjoy/benefit by being able to join group free-play and directed-activities (balanced at times with accommodations). It benefits older children in the program as well – they learn to be leaders and teachers and positive social skills are reinforced (sharing, empathy, patience, kindness).

While I support the change described above regarding the “under 12 months” change, **I do not think that the overall License Capacity should change when infants under 12 months are included in a mixed-age group.** Providers should consider their group make up as a whole - ages, temperaments, etc. – and weigh that considering our individualized day care home’s overall physical layout, our schedule, and our varied activities within whatever spaces have been approved for child care (no two home day cares are exactly alike). It is very easy for me to navigate between our downstairs playroom and our upstairs eating and day care areas with my current group of 7 children (1 14-month-old by Exception, 3 twos, and 3 threes). However, if my group was comprised of 4 under 12 months and 2 over 12 months – I don’t believe, even with my experience, I would safely or effectively manage them all in an fire evacuation or tornado emergency. Even outside of an emergency, I don’t think I could safely 4 under 12 months (varied abilities to self-ambulate) between the required gates we have under regulation and my actual staircase multiple times a day. As SB 282 is written, I don’t believe I could realistically comply with this if it were actual law (last page). **I feel that the License Capacity Tables of SB 282 should align with what we currently operate under.** Providers can always request a **Request for Exception** from KDHE for consideration of age variances and/or extra children.

I would hope that licensed providers will only take on as many children as they felt confident they can provide safe, quality care for. Unfortunately, that is not always the case. People will look at the guidelines and maximize their numbers – regardless if they can handle the group size or make-up, new providers have the added pressure of building their business with little or no experience and that can be a slow process – financially it may more tempting to take a child and “see how it goes” than make sure you are making a sound decision about safety and your current groups make-up.

More day care openings (infant or toddler) are not more important than the safety of our children.

What am I opposed to within SB 282?

SB 282 contains wording for Day Care Homes and Group Day Care Homes which is not practical in application and limits/restricts/demands/implies a style of care that negates one of the most important aspects of home child care – diversity in styles of care, in environments, and in programs. Families often seek home-based child care that aligns with their own personal style of parenting their children – they are not looking for, or expecting, providers to have their eyes on their child at all times.

Looking at page 4, line 33, “(d) No child shall be left unsupervised’ – implies a style of care which many would view as not conducive to healthy development of a child’s self-confidence, creativity or independence. Children need to be able to test and stretch limits in a safe environment - and while they need a lot of supervision – this wording is overreaching and we have had plenty enough “over reaching legislation/regulation” already in Kansas child care. If not deleted entirely, I would suggest the wording be changed to something like

- **“(d) Each child care provider must follow KDHE Regulations regarding Competent Supervision of Children as well as the individualized Supervision Plan the provider has developed for their program, posted publicly on site, and shared with the parents/guardians of children in care.”**

We fought this battle with Lexie’s Law. Lexie’s Law originally contained language as strict (or worse) than SB 282, but was eventually reworded to “Competent Supervision” with KDHE establishing regulations to further detail changes in old regulation for improved guidance. We have legislation on the record for Competent Supervision and revised/expanded guidance through Regulations regarding supervision of active and resting/sleeping children (which includes visual checks on each child every 15 minutes). Additionally, licensees were mandated to develop written Plans for Supervision, Safe Sleep, and Discipline for their individualized programs. These plans must be approved by a KDHE surveyor and are reviewed annually at the time of survey. We must post these in a public place within our homes and go over them with all families. Personally, I include a review of these plans with each prospective family, it may add an hour to our interview, but it is also a vital tool in initiating conversations between potential families and myself about my style of care, their style of parenting and basic policies practiced every day in my program.

Supervision Regulation directs providers to secure children (this is usually applicable to infants) and engage children in an activity if they need to step away for personal hygiene reasons or other child care related duties (food preparation, cleaning, toileting/diapering children, etc.). Supervision regulation calls for us to keep young children in “close proximity” to us.

I have a day care rider on my homeowner’s policy. This line regarding “no child shall be left unsupervised” could make it impossible for me to maintain such coverage, or afford to cover the cost of premium. It could seriously complicate claims resolution. How is that protecting children, families and providers if such coverages are withdrawn from the market place or too expensive to afford?

I apologize for the length of this Testimony. There is so much in this Bill I do not understand, I’m terribly unfamiliar with Center Regulations, “Pilot Programs” I’ve got no idea what those are (hopefully not a new type of child care facility requiring the stretched resources of KDHE for oversight), and I’m baffled by all the new definitions in Section 9 except for the long overdue redefinition of a Child Care Resource and Referral Agency – because that is how I’ve been defining Child Care Aware since 2010.

Sincerely,

Martha Keaton-Ferren