

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 21-0071.01 Jacob Baus x2173

SENATE BILL 21-167

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Senate Committees
Education

House Committees
Public & Behavioral Health & Human Services

HOUSE
3rd Reading Unamended
April 26, 2021

A BILL FOR AN ACT

101 **CONCERNING THE REGULATION OF CHILD CARE CENTERS.**

HOUSE
Amended 2nd Reading
April 23, 2021

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

SENATE
3rd Reading Unamended
April 6, 2021

The bill eliminates duplicate facility inspections for a child care center that provides child care exclusively to school-age children on the property of a school district, charter school, or institute charter school if a satisfactory inspection was completed within the preceding 12 months.

The bill requires the state board of human services (state board) to prescribe rules that eliminate duplicate or conflicting requirements relating to health and safety requirements and inspections for programs that operate on school property.

SENATE
Amended 2nd Reading
April 5, 2021

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

The state board shall prescribe rules applicable to a child care center to require the department of human services to accept as satisfactory a signed affidavit affirming compliance with record keeping and document retention requirements.

The bill provides for staffing flexibility during emergency situations, so long as certain minimum staffing requirements are satisfied.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 24-33.5-1213.3,
3 **amend** (1) as follows:

4 **24-33.5-1213.3. Building and structure fire code maintenance**
5 **- rules.** (1) (a) This section ~~shall apply~~ APPLIES to building and structure
6 maintenance for fire safety. The fire department providing fire protection
7 service for the buildings and structures of a school district or of a local
8 college district or for a charter school may inspect the buildings and
9 structures when deemed necessary to ensure that they are maintained in
10 accordance with the fire code adopted by the director of the division. If
11 the local fire department does not perform the inspections authorized by
12 this section, the division ~~shall have~~ HAS the authority and duty to conduct
13 the inspections.

14 (b) AN INSPECTION CONDUCTED PURSUANT TO THIS SECTION
15 WITHIN THE PRECEDING TWELVE MONTHS SATISFIES THE INSPECTION
16 REQUIREMENT OF A CHILD CARE CENTER THAT PROVIDES CHILD CARE
17 EXCLUSIVELY TO SCHOOL-AGE CHILDREN AND OPERATES ON THE
18 PROPERTY OF A SCHOOL DISTRICT, **DISTRICT** CHARTER SCHOOL, OR
19 INSTITUTE CHARTER SCHOOL. THE FIRE DEPARTMENT OR DIVISION THAT
20 CONDUCTS THE INSPECTION PURSUANT TO THIS SECTION SHALL PROVIDE
21 A COPY OF THE INSPECTION REPORT TO A CHILD CARE CENTER OFFICIAL.

22 **SECTION 2.** In Colorado Revised Statutes, 26-6-104, **amend** (4)

1 as follows:

2 **26-6-104. Licenses - out-of-state notices and consent -**
3 **demonstration pilot program - definition - rules.** (4) (a) The
4 department shall not issue a license for a child care center, residential
5 child care facility, or secure residential treatment center until the facilities
6 to be operated or maintained by the applicant or licensee are approved by
7 the department of public health and environment as conforming to the
8 sanitary standards prescribed by the department ~~under~~ PURSUANT TO
9 section 25-1.5-101 (1)(h) ~~C.R.S.~~, and unless the facilities conform to fire
10 prevention and protection requirements of local fire departments in the
11 locality of the facility or, in lieu thereof, of the division of labor standards
12 and statistics.

13 (b) A CHILD CARE CENTER THAT PROVIDES CHILD CARE
14 EXCLUSIVELY TO SCHOOL-AGE CHILDREN AND OPERATES ON THE
15 PROPERTY OF A SCHOOL DISTRICT, DISTRICT CHARTER SCHOOL, OR
16 INSTITUTE CHARTER SCHOOL MAY SATISFY ANY FIRE OR RADON
17 INSPECTION REQUIREMENT REQUIRED BY LAW BY PROVIDING A COPY OF A
18 SATISFACTORY FIRE OR RADON INSPECTION REPORT OF THE PROPERTY OF
19 A SCHOOL DISTRICT, DISTRICT CHARTER SCHOOL, OR INSTITUTE CHARTER
20 SCHOOL WHERE THE CHILD CARE IS PROVIDED IF THE FIRE OR RADON
21 INSPECTION REPORT WAS COMPLETED WITHIN THE PRECEDING TWELVE
22 MONTHS. THE DEPARTMENT SHALL NOT REQUIRE A DUPLICATE FIRE OR
23 RADON INSPECTION IF A SATISFACTORY FIRE OR RADON INSPECTION
24 REPORT OF THE PROPERTY WAS COMPLETED WITHIN THE PRECEDING
25 TWELVE MONTHS.

26 **SECTION 3.** In Colorado Revised Statutes, 26-6-106, **amend**
27 (2)(e); and **add** (2.3) and (2.6) as follows:

1 **26-6-106. Standards for facilities and agencies - rules -**

2 **definition.** (2) Standards prescribed by such rules are restricted to:

3 (e) (I) The appropriateness, safety, cleanliness, and general
4 adequacy of the premises, including maintenance of adequate fire
5 protection and prevention and health standards in conformance with state
6 laws and municipal ordinances, to provide for the physical comfort, care,
7 well-being, and safety of THE children served.

8 (II) A CHILD CARE CENTER THAT PROVIDES CHILD CARE
9 EXCLUSIVELY TO SCHOOL-AGE CHILDREN AND OPERATES ON THE
10 PROPERTY OF A SCHOOL DISTRICT, DISTRICT CHARTER SCHOOL, OR
11 INSTITUTE CHARTER SCHOOL MAY SATISFY ANY FIRE OR RADON
12 INSPECTION REQUIREMENT REQUIRED BY LAW BY PROVIDING A COPY OF A
13 SATISFACTORY FIRE OR RADON INSPECTION REPORT OF THE PROPERTY OF
14 A SCHOOL DISTRICT, DISTRICT CHARTER SCHOOL, OR INSTITUTE CHARTER
15 SCHOOL WHERE THE CHILD CARE IS PROVIDED IF THE FIRE OR RADON
16 INSPECTION REPORT WAS COMPLETED WITHIN THE PRECEDING TWELVE
17 MONTHS. THE DEPARTMENT SHALL NOT REQUIRE A DUPLICATE FIRE OR
18 RADON INSPECTION IF A SATISFACTORY FIRE OR RADON INSPECTION
19 REPORT OF THE PROPERTY WAS COMPLETED WITHIN THE PRECEDING
20 TWELVE MONTHS.

21 (III) THE DEPARTMENT SHALL REQUIRE AN ANNUAL INSPECTION OF
22 PLAYGROUND FACILITIES ON THE PROPERTY WHERE A CHILD CARE CENTER
23 OPERATES. FOR PURPOSES OF A PLAYGROUND FACILITY INSPECTION, THE
24 DEPARTMENT SHALL ACCEPT AS SATISFACTORY PROOF OF VALID
25 CERTIFICATION OF THE PLAYGROUND FACILITY, CERTIFICATION, OR A COPY
26 OF CERTIFICATION, FROM AN INDIVIDUAL WHO IS LICENSED OR CERTIFIED
27 TO PERFORM PLAYGROUND SAFETY INSPECTIONS THROUGH THE NATIONAL

1 RECREATION AND PARK ASSOCIATION, OR OTHER NATIONALLY
2 RECOGNIZED PLAYGROUND FACILITY SAFETY ORGANIZATION. THE
3 DEPARTMENT SHALL NOT REQUIRE A DUPLICATE INSPECTION IF A
4 SATISFACTORY INSPECTION REPORT WAS COMPLETED WITHIN THE
5 PRECEDING TWELVE MONTHS.

6 (2.3) (a) FOR PURPOSES OF THIS SUBSECTION (2.3), "PROGRAM"
7 MEANS CHILD CARE OFFERED BY A CHILD CARE CENTER THAT HOLDS A
8 LICENSE PURSUANT TO THIS PART 1, PROVIDES CHILD CARE EXCLUSIVELY
9 TO SCHOOL-AGE CHILDREN, AND OPERATES ON THE PROPERTY OF A
10 SCHOOL DISTRICT, DISTRICT CHARTER SCHOOL, OR INSTITUTE CHARTER
11 SCHOOL, REFERRED TO IN THIS SUBSECTION (2.3) AS "SCHOOL PROPERTY".

12 ==
13 (b) WHEN AN AGENCY OR ENTITY PERFORMS AN INSPECTION
14 REQUIRED BY LAW FOR A PROGRAM, THE AGENCY OR ENTITY SHALL
15 PROVIDE A COPY OF THE INSPECTION REPORT TO THE APPROPRIATE
16 OFFICIAL OF THE SCHOOL DISTRICT, DISTRICT CHARTER SCHOOL, OR
17 INSTITUTE CHARTER SCHOOL WHERE THE CHILD CARE CENTER OPERATES.

18 ==
19 (c) IF ALL OF THE REQUIREMENTS IN SECTION 22-1-119.5 AND ANY
20 ADDITIONAL RULES OF THE STATE BOARD ARE MET, A SCHOOL-AGE CHILD
21 ENROLLED IN A PROGRAM ON SCHOOL PROPERTY MAY POSSESS AND
22 SELF-ADMINISTER MEDICATION FOR ASTHMA, A FOOD ALLERGY, OR
23 ANAPHYLAXIS. THE STATE BOARD MAY ADOPT ADDITIONAL RULES FOR
24 PROGRAMS ON SCHOOL PROPERTY CONCERNING THE AUTHORITY TO
25 POSSESS AND SELF-ADMINISTER MEDICATION FOR ASTHMA, A FOOD
26 ALLERGY, OR ANAPHYLAXIS.

27 (2.6) IF ALL OF THE REQUIREMENTS IN SECTION 22-1-119.5 AND

1 ANY ADDITIONAL RULES OF THE STATE BOARD ARE MET, A CHILD
2 ENROLLED IN A LARGE CHILD CARE CENTER, AS DEFINED BY RULE
3 PROMULGATED BY THE STATE BOARD, MAY POSSESS AND
4 SELF-ADMINISTER MEDICATION FOR ASTHMA, A FOOD ALLERGY, OR
5 ANAPHYLAXIS. THE STATE BOARD MAY ADOPT ADDITIONAL RULES
6 CONCERNING THE AUTHORITY TO POSSESS AND SELF-ADMINISTER
7 MEDICATION FOR ASTHMA, A FOOD ALLERGY, OR ANAPHYLAXIS.

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9 **SECTION 4.** In Colorado Revised Statutes, **add** 26-6-106.2 as
10 follows:

11 **26-6-106.2. Staffing during emergency circumstances -**
12 **definitions. (1) DURING AN EMERGENCY CIRCUMSTANCE, A CHILD CARE**
13 **CENTER MAY PERMIT AN EMPLOYEE WHO HAS SUCCESSFULLY COMPLETED**
14 **CRIMINAL BACKGROUND CHECK REQUIREMENTS BUT IS NOT A QUALIFIED**
15 **CAREGIVER TO SUPERVISE CHILDREN FOR NOT MORE THAN TWO HOURS**
16 **WHILE THE CHILD CARE CENTER SECURES A QUALIFIED CAREGIVER.**

17 (2) NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION, A
18 LARGE CHILD CARE CENTER, AS DEFINED BY RULE PROMULGATED BY THE
19 STATE BOARD, OR A CHILD CARE CENTER THAT OPERATES ON THE
20 PROPERTY OF A SCHOOL DISTRICT, DISTRICT CHARTER SCHOOL, OR
21 INSTITUTE CHARTER SCHOOL, MAY PERMIT AN EMPLOYEE OF THE CHILD
22 CARE CENTER OR AN EMPLOYEE OF THE SCHOOL DISTRICT, DISTRICT
23 CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL WHO HAS
24 SUCCESSFULLY COMPLETED CRIMINAL BACKGROUND CHECK
25 REQUIREMENTS BUT IS NOT A QUALIFIED CAREGIVER TO SUPERVISE
26 CHILDREN FOR AN AMOUNT OF TIME THAT IS REASONABLY NECESSARY TO
27 ADDRESS AN EMERGENCY CIRCUMSTANCE.

1 (3) DURING AN EMERGENCY CIRCUMSTANCE, A CHILD CARE
2 CENTER SHALL MAINTAIN THE STAFF-TO-CHILD RATIO REQUIRED BY
3 DEPARTMENT RULE.

4 (4) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
5 REQUIRES, "EMERGENCY CIRCUMSTANCE" INCLUDES, BUT IS NOT LIMITED
6 TO, ILLNESS, DEATH, ACCIDENT, LAW ENFORCEMENT ACTION, ROAD
7 CLOSURE, HAZARDOUS WEATHER, EMERGENCY BODILY FUNCTION, CHILD
8 ELOPEMENT, OR PROVIDING EMERGENCY ATTENTION OR CARE TO A CHILD.

9 **SECTION 5. Act subject to petition - effective date.** This act
10 takes effect at 12:01 a.m. on the day following the expiration of the
11 ninety-day period after final adjournment of the general assembly; except
12 that, if a referendum petition is filed pursuant to section 1 (3) of article V
13 of the state constitution against this act or an item, section, or part of this
14 act within such period, then the act, item, section, or part will not take
15 effect unless approved by the people at the general election to be held in
16 November 2022 and, in such case, will take effect on the date of the
17 official declaration of the vote thereon by the governor.