

CHAPTER 180

SOCIAL SERVICES

SENATE BILL 94-101

BY SENATORS Rizzuto, Bishop, Casey, Cassidy, Gallagher, Groff, Hopper, Mendez, Peterson, L. Powers, and Traylor;
also REPRESENTATIVES Grampas, Allen, Blue, Fleming, Greenwood, Lyle, Owen, and Rupert.

AN ACT**CONCERNING THE LICENSING OF CHILD CARE FACILITIES.**

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

SECTION 1. Article 6 of title 26, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

26-6-101.4. Legislative declaration concerning the protections afforded by regulation. THE GENERAL ASSEMBLY FINDS AND DECLARES THAT INCREASING NUMBERS OF CHILDREN IN COLORADO ARE SPENDING A SIGNIFICANT PORTION OF THEIR DAY IN CARE SETTINGS OUTSIDE THEIR OWN HOMES. IN ADDITION, SOME CHILDREN ARE PLACED IN FACILITIES FOR RESIDENTIAL CARE FOR THEIR PROTECTION AND WELL-BEING. THE GENERAL ASSEMBLY FINDS THAT REGULATION AND LICENSING OF CHILD CARE FACILITIES CONTRIBUTE TO A SAFE AND HEALTHY ENVIRONMENT FOR CHILDREN. THE PROVISION OF SUCH ENVIRONMENT AFFORDS BENEFITS TO CHILDREN, THEIR FAMILIES, THEIR COMMUNITIES, AND THE LARGER SOCIETY. THE GENERAL ASSEMBLY ACKNOWLEDGES THAT THERE IS A NEED TO BALANCE ACCESSIBILITY AND QUALITY OF CARE WHEN REGULATING CHILD CARE FACILITIES. IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THOSE WHO REGULATE AND THOSE WHO ARE REGULATED WORK TOGETHER TO MEET THE NEEDS OF THE CHILDREN, THEIR FAMILIES, AND THE CHILD CARE INDUSTRY.

SECTION 2. 26-6-102 (4), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

26-6-102. Definitions. As used in this article, unless the context otherwise requires:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(4) "Family care home" means a facility for child care in a place of residence of a family or person for the purpose of providing family care and training for a child under the age of sixteen years who is not related to the head of such home. The term includes any family ~~care~~ FOSTER home receiving a child for regular twenty-four-hour care and any home receiving a child from any state-operated institution for child care or from any child placement agency, as defined in subsection (2) of this section, or any ~~day~~ FAMILY CHILD care home receiving a child for less than twenty-four-hour care.

SECTION 3. 26-6-103 (1) (b), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

26-6-103. Application of article. (1) This article shall not apply to:

(b) A child care facility which is approved, certified, or licensed by ~~the state department~~ or any other state agency, or by a federal government department or agency, which has standards for operation of the facility and inspects or monitors the facility;

SECTION 4. 26-6-104 (3), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

26-6-104. Licenses - out-of-state notices and consent. (3) A provisional license for a period of six months may be issued to an applicant for an original ~~or renewal~~ license, permitting ~~him~~ THE APPLICANT to operate a family care home or child care center or maintain an employer-sponsored on-site child care center if ~~he~~ THE APPLICANT is temporarily unable to conform to all minimum standards required under this article, upon proof by the applicant that attempts are being made to ~~so~~ conform TO SUCH STANDARDS or to comply with any other requirements. ~~Such provisional license may be renewed for six-month periods up to two years, in the discretion of the department.~~ THE APPLICANT HAS THE RIGHT TO APPEAL ANY STANDARD WHICH THE APPLICANT BELIEVES WORKS AN UNDUE HARDSHIP OR HAS BEEN APPLIED TOO STRINGENTLY BY THE REPRESENTATIVES OF THE DEPARTMENT. UPON FILING AN APPEAL, THE DEPARTMENT SHALL PROCEED IN THE MANNER PRESCRIBED FOR LICENSEE APPEALS IN SECTION 26-6-106 (3).

SECTION 5. The introductory portion to 26-6-105 (1) (a) and 26-6-105 (2) (a) and (2) (b) (II), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

26-6-105. Fees - when original and renewal applications for licensure are required - creation of child care licensing cash fund. (1) (a) The department is hereby authorized to establish, pursuant to rules and regulations, full and ~~provisional, original, and renewal~~ PROVISIONAL license fees AND FEES FOR CONTINUATION OF A FULL LICENSE for the following types of child care arrangements:

(2) (a) The fees specified in subsection (1) of this section shall be paid when application is made for any ~~original or renewal~~ license and shall not be subject to refund. Applications for ~~original or renewal~~ licenses shall be required in the situations which are set forth in paragraph (b) of this subsection (2) and shall be made on forms prescribed by the department. Each completed application shall set forth such

information as required by the department. All full ~~original and renewal~~ licenses shall continue in force ~~for two years from the date of an inspection which can be accepted by the department as having met the criteria as set forth in section 26-6-107~~ UNTIL REVOKED OR SURRENDERED.

(b) (II) A renewal ~~application~~ DECLARATION AND FEE shall be required and received by the department ~~prior to the expiration of a full or provisional license~~ IN THE MANNER SPECIFIED IN RULES AND REGULATIONS ESTABLISHED BY THE DEPARTMENT.

SECTION 6. 26-6-102 (2), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

26-6-106. Standards for facilities and agencies. (2) Standards prescribed by such rules shall be restricted to:

(n) PROVISIONS WHICH ENSURE THAT VERIFICATION IN ACCORDANCE WITH PART 9 OF ARTICLE 4 OF TITLE 25, C.R.S., IS UNDERTAKEN BY FAMILY CARE HOMES AND CHILD CARE CENTERS ENSURING THAT EACH CHILD HAS RECEIVED APPROPRIATE IMMUNIZATIONS AGAINST CONTAGIOUS DISEASES AS FOLLOWS:

(I) CHILDREN UP TO TWENTY-FOUR MONTHS OF AGE SHALL BE REQUIRED TO BE IMMUNIZED IN ACCORDANCE WITH THE "INFANT IMMUNIZATION ACT", PART 17 OF ARTICLE 4 OF TITLE 25, C.R.S.

(II) CHILDREN OVER TWENTY-FOUR MONTHS OF AGE SHALL BE REQUIRED TO BE IMMUNIZED IN ACCORDANCE WITH PART 9 OF ARTICLE 4 OF TITLE 25, C.R.S.

SECTION 7. 26-6-106 (3), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

26-6-106. Standards for facilities and agencies. (3) Any APPLICANT OR person licensed to operate a child care facility or agency under the provisions of this article has the right to appeal any standard which, in his OR HER opinion, works an undue hardship or when, in his OR HER opinion, a standard has been too stringently applied by representatives of the department. ~~Upon such appeal, The department shall designate a panel of three persons representing the department of institutions, the department of education, and the department of health~~ VARIOUS STATE AND LOCAL GOVERNMENTAL AGENCIES WITH AN INTEREST IN AND CONCERN FOR CHILDREN to hear such appeal and to make recommendations to the department.

SECTION 8. 26-6-109 (1) (a) and (1) (c), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

26-6-109. Advisory committee - sunset review - institutes. (1) (a) There is hereby created an advisory committee on licensing of child care facilities to advise and consult with the department in the administration and enforcement of this article. Said committee shall consist of ~~eleven~~ FIFTEEN members to be appointed by the governor for terms of three years; except that, of the members first appointed, four shall be appointed for three years, four for two years, and three for one year. Thereafter members shall be appointed for terms of three years except in the case of

a vacancy which shall be filled for the remainder of the unexpired term. No member shall be appointed to succeed himself OR HERSELF; except that members who have been appointed to fill the remainder of an unexpired term may be appointed to fill the succeeding full term.

(c) The committee shall consist of ~~five~~ NINE members ~~from among the licensees~~ WHO SHALL REPRESENT THE VARIOUS TYPES OF FACILITIES licensed under the provisions of this article, ~~and one member representing the department, one member representing the department of health, one member representing the department of education, one member representing the department of institutions~~ FOUR MEMBERS REPRESENTING VARIOUS STATE AND LOCAL GOVERNMENTAL AGENCIES WITH AN INTEREST IN AND CONCERN FOR CHILDREN, and two members at large who are ~~not licensees under this article or representatives of the departments mentioned in this paragraph (c) but who are persons of known interest in child welfare. For the terms of the two members at large beginning July 1, 1990, July 1, 1991, and thereafter, such at large members shall be parents, each having at least one child attending a facility licensed or certified under this article at the time of such members' appointment.~~

SECTION 9. Effective date. This act shall take effect January 1, 1995.

SECTION 10. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 4, 1994