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SENATE FILE 2097

BY TINSMAN, REHBERG, and
BOETTGER

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to regulation of child care and child development
2 homes and providing effective date and applicability
3 provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 2097
HUMAN RESOURCES

1 Section 1. Section 232.69, subsection 1, paragraph b,
2 subparagraph (5), Code Supplement 2001, is amended to read as
3 follows:

4 (5) An employee or operator of a licensed child care
5 center, registered child care development home, head start
6 program, family development and self-sufficiency grant program
7 under section 217.12, or healthy opportunities for parents to
8 experience success--healthy families Iowa program under
9 section 135.106.

10 Sec. 2. Section 237.1, subsection 4, paragraph d, Code
11 2001, is amended to read as follows:

12 d. Child care furnished by a child care center, a child
13 development home, or a child care home as defined in section
14 237A.1.

15 Sec. 3. Section 237A.1, subsections 4, 5, and 6, Code
16 Supplement 2001, are amended to read as follows:

17 4. "Child care center" or "center" means a facility
18 providing child care or preschool services for seven or more
19 children, except when the facility is registered as a child
20 care development home.

21 5. "Child care facility" or "facility" means a child care
22 center, preschool, or a registered child care development
23 home.

24 6. "Child care home" means a person or program providing
25 child care ~~as-a-family-child-care-home-or-a-group-child-care~~
26 home to three or fewer children at any one time that is not
27 registered to provide child care under this chapter, as
28 authorized under section 237A.3.

29 Sec. 4. Section 237A.1, Code Supplement 2001, is amended
30 by adding the following new subsection:

31 NEW SUBSECTION. 6A. "Child development home" means a
32 person or program registered under section 237A.3A that may
33 provide child care to four or more children at any one time.

34 Sec. 5. Section 237A.1, subsections 7 and 10, Code
35 Supplement 2001, are amended by striking the subsections.

1 Sec. 6. Section 237A.3, Code Supplement 2001, is amended
2 by striking the section and inserting in lieu thereof the
3 following:

4 237A.3 CHILD CARE HOMES.

5 A person or program providing child care to three children
6 or fewer at any one time is a child care home provider and is
7 not required to register under section 237A.3A as a child
8 development home. However, the person or program may register
9 as a child development home.

10 Sec. 7. Section 237A.3A, Code Supplement 2001, is amended
11 by striking the section and inserting in lieu thereof the
12 following:

13 237A.3A CHILD DEVELOPMENT HOMES.

14 1. REGISTRATION.

15 a. A person shall not establish or operate a child
16 development home unless the person obtains a certificate of
17 registration. The department shall issue a certificate of
18 registration upon receipt of a statement from the person or
19 upon completion of an inspection conducted by the department
20 or a designee of the department verifying that the person
21 complies with applicable rules adopted by the department
22 pursuant to this section and section 237A.12.

23 b. The certificate of registration shall be posted in a
24 conspicuous place in the child development home and shall
25 state the name of the registrant, the registration category of
26 the child development home, the maximum number of children who
27 may be present for child care at any one time, and the address
28 of the child development home. In addition, the certificate
29 shall include a checklist of registration compliances.

30 c. The registration process for a child development home
31 shall be repeated every twenty-four months as provided by
32 rule.

33 d. A person who holds a child foster care license under
34 chapter 237 must register as a child development home provider
35 in order to provide child care.

1 2. REVOCATION OR DENIAL OF REGISTRATION. If the
2 department has denied or revoked a certificate of registration
3 because a person has continually or repeatedly failed to
4 operate a registered or licensed child care facility in
5 compliance with this chapter and rules adopted pursuant to
6 this chapter, the person shall not operate or establish a
7 registered child development home for a period of twelve
8 months from the date the registration or license was denied or
9 revoked. The department shall not act on an application for
10 registration submitted by the person during the twelve-month
11 period.

12 3. RULES.

13 a. Three categories of standards shall be applicable to
14 child development homes. The initial designations of the
15 categories, which may be revised by the department, shall be
16 "A", "B", and "C", as ranked from less stringent standards and
17 capacity to more stringent standards and capacity. The "C"
18 registration category standards shall require the highest
19 level of provider qualifications and allow the greatest
20 capacity of the three categories. The department shall adopt
21 rules applying standards to each category specifying provider
22 qualifications and training, health and safety requirements,
23 capacity, amount of space available per child, and other
24 minimum requirements. The capacity requirements shall take
25 into consideration the provider's own children, children who
26 have a mild illness, children receiving part-time child care,
27 and children served as a sibling group in overnight care.

28 b. The rules shall allow a child development home to be
29 registered in a particular category for which the provider is
30 qualified even though the amount of space required to be
31 available for the maximum number of children authorized for
32 that category exceeds the actual amount of space available in
33 that home. However, the total number of children authorized
34 for the child development home at that category of
35 registration shall be limited by the amount of space available

1 per child.

2 c. In consultation with the state fire marshal, the
3 department shall adopt rules relating to the provision of fire
4 extinguishers, smoke detectors, and two exits accessible to
5 children in a child development home.

6 d. The department shall adopt rules relating to the
7 provision of a separate area for sick children in those child
8 development homes registered in categories "B" and "C".

9 4. NUMBER OF CHILDREN.

10 a. In determining the number of children present for child
11 care at any one time in a child development home, each child
12 present in the child development home shall be considered to
13 be provided child care unless the child is described by one of
14 the following exceptions:

15 (1) The child's parent, guardian, or custodian operates or
16 established the child development home and the child is
17 attending school or the child is provided child care full-time
18 on a regular basis from another person.

19 (2) The child has been present in the child development
20 home for more than seventy-two consecutive hours and the child
21 is attending school or the child is provided child care full-
22 time on a regular basis from another person.

23 b. For purposes of determining the number of children
24 present for child care in a child development home, a child
25 receiving foster care from a child development home provider
26 shall be considered to be the child of the provider.

27 Sec. 8. Section 237A.4, Code 2001, is amended to read as
28 follows:

29 237A.4 INSPECTION AND EVALUATION.

30 The department shall make periodic inspections of licensed
31 centers to ensure compliance with licensing requirements
32 provided in this chapter, and the local boards of health may
33 make periodic inspections of licensed centers to ensure
34 compliance with health-related licensing requirements provided
35 in this chapter. The ~~administrator~~ department may inspect

1 records maintained by a licensed center and may inquire into
2 matters concerning these centers and the persons in charge.
3 The administrator department shall require that the center be
4 inspected by the state fire marshal or a designee for
5 compliance with rules relating to fire safety before a license
6 is granted or renewed. The administrator department or a
7 designee may periodically visit registered child care
8 development homes for the purpose of evaluation of an inquiry
9 into matters concerning compliance with rules adopted under
10 section 237A.12. Evaluation of child care development homes
11 under this section may include consultative services provided
12 pursuant to section 237A.6.

13 Sec. 9. Section 237A.12, subsection 1, unnumbered
14 paragraph 1, Code 2001, is amended to read as follows:

15 Subject to the provisions of chapter 17A, the administrator
16 department shall adopt rules setting minimum standards to
17 provide quality child care in the operation and maintenance of
18 child care centers and registered child care development
19 homes, relating to all of the following:

20 Sec. 10. Section 237A.12, subsection 1, paragraph c, Code
21 2001, is amended to read as follows:

22 c. The adequacy of activity programs and food services
23 available to the children. The administrator department shall
24 not restrict the use of or apply nutritional standards to a
25 lunch or other meal which is brought to the center, child
26 development home, or child care home by a school-age child for
27 the child's consumption.

28 Sec. 11. Section 237A.13, subsection 2, Code 2001, is
29 amended to read as follows:

30 2. Services under the program may be provided in a
31 licensed child care center, a registered-group child care
32 development home, ~~a-registered-family-child-care-home~~, the
33 home of a relative, the child's own home, ~~an-unregistered~~
34 ~~family~~ a child care home, or in a facility exempt from
35 licensing or registration.

1 Sec. 12. Section 237A.19, Code 2001, is amended to read as
2 follows:

3 237A.19 PENALTY.

4 1. A person who establishes, conducts, manages, or
5 operates a center without a license ~~shall be guilty of~~ commits
6 a serious misdemeanor. Each day of continuing violation after
7 conviction, or notice from the department by certified mail of
8 the violation, shall be considered a separate offense.

9 2. If registration is required under section ~~237A-3~~
10 237A.3A, a person who establishes, conducts, manages, or
11 operates a child ~~care~~ development home without registering or
12 a person who operates a child ~~care~~ development home contrary
13 to section 237A.5, ~~is guilty of~~ commits a simple misdemeanor.
14 Each day of continuing violation after conviction, or notice
15 from the department by certified mail of the violation, is a
16 separate offense. A single charge alleging continuing
17 violation may be made in lieu of filing charges for each day
18 of violation.

19 Sec. 13. Section 237A.20, Code 2001, is amended to read as
20 follows:

21 237A.20 INJUNCTION.

22 A person who establishes, conducts, manages, or operates a
23 center without a license or a child ~~care~~ development home
24 without a certificate of registration, if registration is
25 required under section ~~237A-3~~ 237A.3A, may be restrained by
26 temporary or permanent injunction. A person who has been
27 convicted of a crime against a person or a person with a
28 record of founded child abuse may be restrained by temporary
29 or permanent injunction from providing unregistered,
30 registered, or licensed child care. The action may be
31 instituted by the state, the county attorney, a political
32 subdivision of the state, or an interested person.

33 Sec. 14. Section 237A.21, subsection 1, Code 2001, is
34 amended to read as follows:

35 1. A state child care advisory council is established

1 consisting of not more than thirty-five members from urban and
2 rural areas across the state. The membership shall include,
3 but is not limited to, all of the following persons or
4 representatives with an interest in child care: a licensed
5 center provider, a registered child ~~care~~ development home
6 provider from a county with a population of less than twenty-
7 two thousand, an unregistered child care home provider, a
8 parent of a child in child care, staff members of appropriate
9 governmental agencies, and other members as deemed necessary
10 by the director. The members are eligible for reimbursement
11 of their actual and necessary expenses while engaged in
12 performance of their official duties.

13 Sec. 15. Section 237A.21, subsection 3, paragraphs a, e,
14 and f, Code 2001, are amended to read as follows:

15 a. Two parents of a child served by a registered child
16 care development home.

17 e. ~~Two-family~~ One child care home ~~providers~~ provider.

18 f. ~~Two-group~~ Three child care development home providers.

19 Sec. 16. Section 237A.26, subsection 3, paragraph a, Code
20 2001, is amended to read as follows:

21 a. Organize assistance to child care homes and child
22 development homes utilizing training levels based upon the
23 homes' degrees of experience and interest.

24 Sec. 17. Section 237A.26, subsection 6, paragraph h, Code
25 2001, is amended to read as follows:

26 h. Administer funding designated within the grant to
27 provide a substitute caregiver program for registered child
28 care development homes to provide substitute child care in a
29 home when the home provider is ill, on vacation, receiving
30 training, or is otherwise unable to provide the care.

31 Sec. 18. CHILD DEVELOPMENT HOME REGISTRATION -- TRANSITION
32 EXCEPTION. The following transition exception shall apply to
33 child development home providers initially registering under
34 section 237A.3A or renewing a previously issued valid child
35 care home registration on or after October 1, 2002:

1 1. If the provider is providing child care to four infants
2 at the time of registration or renewal, the provider may
3 continue to provide child care to those four infants.
4 However, if the provider no longer provides child care to one
5 or more of the four infants, or one or more of the four
6 infants reaches the age of twenty-four months, the exception
7 authorized in this subsection shall no longer apply. This
8 exception does not affect the overall limitation authorized
9 for the number of children in the child development home
10 category within which the provider is registered.

11 2. If, at the time of registration or renewal, the
12 provider is providing child care to school-age children in
13 excess of the number of school-age children authorized for the
14 provider's registration category, the provider may continue to
15 provide child care to those children and the provider may
16 exceed the total number of children authorized for the
17 category of registration by the number of school-age children
18 in excess of the number authorized for the registration level.
19 This exception is subject to all of the following:

20 a. The provider must comply with the other requirements
21 relating to the number of children for which the provider is
22 authorized to provide child care at that registration
23 category.

24 b. The maximum number of children attributable to the
25 authorization for school-age children at the applicable
26 registration category is five.

27 c. If more than eight children are present at any one time
28 for more than two hours, the provider shall be assisted by a
29 responsible person who is at least fourteen years of age.

30 d. If the provider no longer provides child care to an
31 individual school-age child who was receiving child care from
32 the provider at the time of registration under section
33 237A.3A, the excess number of children allowed under this
34 exception shall be reduced accordingly.

35 Sec. 19. EFFECTIVE DATE -- APPLICABILITY -- EMERGENCY

1 RULES.

2 1. This Act takes effect October 1, 2002, and applies to
3 unregistered child care home providers and child development
4 home providers that register or renew registration on or after
5 that date. If a child care home is registered as a family or
6 group child care home as of September 30, 2002, this Act shall
7 apply upon registration renewal.

8 2. The department of human services may adopt emergency
9 rules under section 17A.4, subsection 2, and section 17A.5,
10 subsection 2, paragraph "b", to implement the provisions of
11 this Act and the rules shall be effective immediately upon
12 filing unless the effective date is delayed by the
13 administrative rules review committee, notwithstanding section
14 17A.4, subsection 5, and section 17A.8, subsection 9, or a
15 later date is specified in the rules. Any rules adopted in
16 accordance with this section shall not take effect before the
17 administrative rules review committee reviews the rules. Any
18 rules adopted in accordance with this section shall also be
19 published as a notice of intended action as provided in
20 section 17A.4.

21 EXPLANATION

22 This bill relates to regulation of child care and child
23 development homes.

24 The bill amends Code chapter 237A relating to requirements
25 administered by the department of human services affecting
26 home child care providers. Under current law, a family child
27 care home may provide child care to six or fewer children at
28 any one time, along with up to five additional children during
29 inclement weather, and registration with the department is
30 optional. Current law requires a group child care home
31 registration for homes providing care to more than six but
32 fewer than 12 children at any one time, along with up to five
33 additional children during inclement weather. In addition,
34 under Code section 237A.3A, a pilot project provides for four
35 levels of registration within a general child care home

1 category.

2 The bill reduces the number of children allowed to be cared
3 for before registration is required and eliminates family and
4 group child care home registrations. Unregistered child care
5 is defined as a "child care home" serving no more than three
6 children at any one time. Registration is required for homes
7 that may provide care to four or more children at any one
8 time. The registered providers are termed "child development
9 homes" and the department is directed to develop standards for
10 capacity, provider qualifications, fire safety, and other
11 requirements based upon three categories of care. Initially,
12 the three categories are "A", "B", and "C", as ranked by
13 applying less stringent to more stringent standards.

14 The bill makes conforming changes in Code chapters 232,
15 relating to juvenile justice; Code chapter 237, relating to
16 foster care; and Code chapter 237A, relating to child care
17 facilities.

18 The bill includes transition provisions allowing a child
19 development home provider who is providing child care to a
20 greater number of children than is allowed for the provider's
21 registration category to continue to provide child care to
22 those children until the children become old enough or are no
23 longer receiving the care.

24 The bill takes effect October 1, 2002, and is applicable to
25 child care home providers registered prior to that date upon
26 renewal of the registration. The department is authorized to
27 adopt rules in accordance with emergency procedures,
28 eliminating notice and comment periods, but following review
29 by the administrative rules review committee.

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