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FILED FEB 15 2002

SENATE FILE 2205
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SF 2097)

Passed Senate, ^(P. 557) Date 3-11-02 Passed House, ^(P. 1179) Date 4-4-02
Vote: Ayes 43 Nays 6 Vote: Ayes 91 Nays 4
Approved May 2, 2002

^(P. 994) Re-Parred 4-8-02
Vote 45-2 A BILL FOR

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

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

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SF 2205

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, subsection 2, Code Supplement
16 2001, is amended to read as follows:

17 2. "Child" means a either of the following:

18 a. A person under-eighteen twelve years of age or younger.

19 b. A person thirteen years of age or older but younger
20 than nineteen years of age who has a developmental disability
21 as defined under the federal Developmental Disabilities
22 Assistance and Bill of Rights Act of 2000, Pub. L. No. 106-
23 402, as codified in 42 U.S.C. § 15002(8).

24 Sec. 4. Section 237A.1, subsection 3, paragraph h, Code
25 Supplement 2001, is amended to read as follows:

26 h. An after school program continuously offered throughout
27 the school year calendar to children who are at least five
28 years of age and are enrolled in school, and attend the
29 program intermittently or a summer-only program for such
30 children. The program must be provided through a nominal
31 membership fee or at no cost.

32 Sec. 5. Section 237A.1, subsection 3, Code Supplement
33 2001, is amended by adding the following new paragraph:

34 NEW PARAGRAPH. n. A program offered to a child whose
35 parent, guardian, or custodian is engaged solely in a

1 recreational or social activity, remains immediately available
2 and accessible on the physical premises on which the child's
3 care is provided, and does not engage in employment while the
4 care is provided.

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

7 4. "Child care center" or "center" means a facility
8 providing child care or preschool services for seven or more
9 children, except when the facility is registered as a child
10 care development home.

11 5. "Child care facility" or "facility" means a child care
12 center, preschool, or a registered child care development
13 home.

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

19 Sec. 7. Section 237A.1, Code Supplement 2001, is amended
20 by adding the following new subsection:

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

24 Sec. 8. Section 237A.1, subsections 7 and 10, Code
25 Supplement 2001, are amended by striking the subsections.

26 Sec. 9. Section 237A.2, subsection 2, Code 2001, is
27 amended to read as follows:

28 2. a. A person denied a license under ~~the-provisions-of~~
29 this section shall receive written notice of the denial
30 stating the reasons for denial and shall be provided with an
31 opportunity for an evidentiary hearing.

32 b. ~~Licenses-granted~~ A license issued under this chapter
33 shall be valid for one-year twenty-four months from the date
34 of issuance. A license shall remain valid unless it is
35 revoked or suspended in accordance with the provisions of

1 section 237A.8 or is reduced to a provisional license under
2 subsection 3. The department may inspect a licensed center at
3 any time. A record of the license shall be kept by the
4 department.

5 c. The license shall be posted in a conspicuous place in
6 the center and shall state the particular premises in which
7 child care may be offered and the number of individuals who
8 may be received for care at any one time. A greater number of
9 children than is authorized by the license shall not be kept
10 in the center at any one time.

11 Sec. 10. Section 237A.2, subsection 5, Code 2001, is
12 amended to read as follows:

13 5. If the department has denied or revoked a license
14 because the applicant or person has continually or repeatedly
15 failed to operate a licensed center in compliance with this
16 chapter and rules adopted pursuant to this chapter, the person
17 shall not own or operate a child care center for a period of
18 ~~six~~ twelve months from the date the license is denied or
19 revoked. The department shall not act on an application for a
20 license submitted by the applicant or person during the ~~six-~~
21 month twelve-month period.

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

25 237A.3 CHILD CARE HOMES.

26 A person or program providing child care to three children
27 or fewer at any one time is a child care home provider and is
28 not required to register under section 237A.3A as a child
29 development home. However, the person or program may register
30 as a child development home.

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

34 237A.3A CHILD DEVELOPMENT HOMES.

35 1. REGISTRATION.

1 a. A person shall not establish or operate a child
2 development home unless the person obtains a certificate of
3 registration. The department shall issue a certificate of
4 registration upon receipt of a statement from the person or
5 upon completion of an inspection conducted by the department
6 or a designee of the department verifying that the person
7 complies with applicable rules adopted by the department
8 pursuant to this section and section 237A.12.

9 b. The certificate of registration shall be posted in a
10 conspicuous place in the child development home and shall
11 state the name of the registrant, the registration category of
12 the child development home, the maximum number of children who
13 may be present for child care at any one time, and the address
14 of the child development home. In addition, the certificate
15 shall include a checklist of registration compliances.

16 c. The registration process for a child development home
17 shall be repeated every twenty-four months as provided by
18 rule.

19 d. A person who holds a child foster care license under
20 chapter 237 shall register as a child development home
21 provider in order to provide child care.

22 2. REVOCATION OR DENIAL OF REGISTRATION. If the
23 department has denied or revoked a certificate of registration
24 because a person has continually or repeatedly failed to
25 operate a registered or licensed child care facility in
26 compliance with this chapter and rules adopted pursuant to
27 this chapter, the person shall not operate or establish a
28 registered child development home for a period of twelve
29 months from the date the registration or license was denied or
30 revoked. The department shall not act on an application for
31 registration submitted by the person during the twelve-month
32 period.

33 3. RULES.

34 a. Three categories of standards shall be applicable to
35 child development homes. The initial designations of the

1 categories, which may be revised by the department, shall be
2 "A", "B", and "C", as ranked from less stringent standards and
3 capacity to more stringent standards and capacity. The "C"
4 registration category standards shall require the highest
5 level of provider qualifications and allow the greatest
6 capacity of the three categories. The department shall adopt
7 rules applying standards to each category specifying provider
8 qualifications and training, health and safety requirements,
9 capacity, amount of space available per child, and other
10 minimum requirements. The capacity requirements shall take
11 into consideration the provider's own children, children who
12 have a mild illness, children receiving part-time child care,
13 and children served as a sibling group in overnight care.

14 b. The rules shall allow a child development home to be
15 registered in a particular category for which the provider is
16 qualified even though the amount of space required to be
17 available for the maximum number of children authorized for
18 that category exceeds the actual amount of space available in
19 that home. However, the total number of children authorized
20 for the child development home at that category of
21 registration shall be limited by the amount of space available
22 per child.

23 c. In consultation with the state fire marshal, the
24 department shall adopt rules relating to the provision of fire
25 extinguishers, smoke detectors, and two exits accessible to
26 children in a child development home.

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

30 4. NUMBER OF CHILDREN.

31 a. In determining the number of children present for child
32 care at any one time in a child development home, each child
33 present in the child development home shall be considered to
34 be provided child care unless the child is described by one of
35 the following exceptions:

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

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

9 b. For purposes of determining the number of children
10 present for child care in a child development home, a child
11 receiving foster care from a child development home provider
12 shall be considered to be the child of the provider.

13 Sec. 13. Section 237A.4, Code 2001, is amended to read as
14 follows:

15 237A.4 INSPECTION AND EVALUATION.

16 The department shall make periodic inspections of licensed
17 centers to ensure compliance with licensing requirements
18 provided in this chapter, and the local boards of health may
19 make periodic inspections of licensed centers to ensure
20 compliance with health-related licensing requirements provided
21 in this chapter. The ~~administrator~~ department may inspect
22 records maintained by a licensed center and may inquire into
23 matters concerning these centers and the persons in charge.
24 The ~~administrator~~ department shall require that the center be
25 inspected by the state fire marshal or a designee for
26 compliance with rules relating to fire safety before a license
27 is granted or renewed. The ~~administrator~~ department or a
28 designee may periodically visit registered child care
29 development homes for the purpose of evaluation of an inquiry
30 into matters concerning compliance with rules adopted under
31 section 237A.12. Evaluation of child ~~care~~ development homes
32 under this section may include consultative services provided
33 pursuant to section 237A.6.

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

1 Subject to the provisions of chapter 17A, the administrator
2 department shall adopt rules setting minimum standards to
3 provide quality child care in the operation and maintenance of
4 child care centers and registered child care development
5 homes, relating to all of the following:

6 Sec. 15. Section 237A.12, subsection 1, paragraph c, Code
7 2001, is amended to read as follows:

8 c. The adequacy of activity programs and food services
9 available to the children. The administrator department shall
10 not restrict the use of or apply nutritional standards to a
11 lunch or other meal which is brought to the center, child
12 development home, or child care home by a school-age child for
13 the child's consumption.

14 Sec. 16. Section 237A.12, subsection 3, Code 2001, is
15 amended to read as follows:

16 3. Rules relating to fire safety for child care centers
17 shall be adopted under this chapter by the state fire marshal
18 in consultation with the department. Rules adopted by the
19 state fire marshal for a building which is owned or leased by
20 a school district or accredited nonpublic school and used as a
21 child care facility shall not differ from standards adopted by
22 the state fire marshal for school buildings under chapter 100.
23 Rules relating to sanitation shall be adopted by the
24 department in consultation with the director of public health.
25 All rules shall be developed in consultation with the state
26 child care advisory council. The state fire marshal shall
27 inspect the facilities.

28 Sec. 17. 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. 18. 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. 19. 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. 20. 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. 21. 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. 22. 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. 23. Section 237A.26, subsection 6, paragraph e, Code
25 2001, is amended to read as follows:

26 e. Provide specialized services to employers, including
27 the provision of resource and referral services to employee
28 groups identified by the employer and the provision of
29 technical assistance to develop employer-supported child care
30 programs. The specialized services may include but are not
31 limited to working with employers to identify networks of
32 recommended registered and licensed child care providers for
33 employee groups and to implement employer-supported quality
34 improvement initiatives among the network providers.

35 Sec. 24. Section 237A.26, subsection 6, paragraph h, Code

1 2001, is amended to read as follows:

2 h. Administer funding designated within the grant to
3 provide a substitute caregiver program for registered child
4 care development homes to provide substitute child care in a
5 home when the home provider is ill, on vacation, receiving
6 training, or is otherwise unable to provide the care.

7 Sec. 25. Section 237A.26, Code 2001, is amended by adding
8 the following new subsection:

9 NEW SUBSECTION. 8. For purposes of improving the quality
10 and consistency of data collection, consultation, and other
11 support to child care home and child development home
12 providers, a resource and referral services agency grantee
13 shall coordinate and assist with publicly and privately funded
14 efforts administered at the community level to provide the
15 support. The support and efforts addressed by a grantee may
16 include but are not limited to community-funded child care
17 home and child development home consultants. Community
18 members involved with the assistance may include but are not
19 limited to the efforts of a community empowerment area board
20 under chapter 28, and of community representatives of
21 education, health, human services, business, faith, and public
22 interests.

23 Sec. 26. Section 237A.30, subsection 1, Code 2001, is
24 amended to read as follows:

25 1. The department shall accept nationally recognized
26 accreditations in identifying and listing high quality child
27 care providers. Any registered ~~family-or-group~~ child
28 development home or licensed child care provider in this state
29 that is accredited in good standing by the national
30 association for the education of young children or the
31 national association for family child care shall be included
32 in the listing.

33 Sec. 27. Section 237A.30, subsection 4, Code 2001, is
34 amended to read as follows:

35 4. Subject to the availability of funding, an eligible

1 holder of the gold seal quality designation receiving an
2 initial or renewal national accreditation may receive a one-
3 time cash award in the year of initial or renewal
4 accreditation on or after July 1, 1999. Holders of the
5 designation who received funding assistance to obtain the
6 initial or renewal national accreditation under a grant
7 administered by the child development coordinating council or
8 as part of being a federal head start program are not eligible
9 for the cash award. Eligible holders of the designation may
10 receive a cash award of two hundred fifty dollars for
11 registered ~~family-and-group-care~~ child development home
12 providers and five hundred dollars for licensed centers.

13 Sec. 28. Section 237A.27, Code 2001, is repealed.

14 Sec. 29. CHILD DEVELOPMENT HOME REGISTRATION -- TRANSITION
15 EXCEPTION. The following transition exception shall apply to
16 child development home providers initially registering under
17 section 237A.3A or renewing a previously issued valid child
18 care home registration on or after October 1, 2002:

19 1. If the provider is providing child care to four infants
20 at the time of registration or renewal, the provider may
21 continue to provide child care to those four infants.
22 However, if the provider no longer provides child care to one
23 or more of the four infants, or one or more of the four
24 infants reaches the age of twenty-four months, the exception
25 authorized in this subsection shall no longer apply. This
26 exception does not affect the overall limitation authorized
27 for the number of children in the child development home
28 category within which the provider is registered.

29 2. If, at the time of registration or renewal, the
30 provider is providing child care to school-age children in
31 excess of the number of school-age children authorized for the
32 provider's registration category, the provider may continue to
33 provide child care to those children and the provider may
34 exceed the total number of children authorized for the
35 category of registration by the number of school-age children

1 in excess of the number authorized for the registration level.

2 This exception is subject to all of the following:

3 a. The provider must comply with the other requirements
4 relating to the number of children for which the provider is
5 authorized to provide child care at that registration
6 category.

7 b. The maximum number of children attributable to the
8 authorization for school-age children at the applicable
9 registration category is five.

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

13 d. If the provider no longer provides child care to an
14 individual school-age child who was receiving child care from
15 the provider at the time of registration under section
16 237A.3A, the excess number of children allowed under this
17 exception shall be reduced accordingly.

18 Sec. 30. EFFECTIVE DATE -- APPLICABILITY -- EMERGENCY
19 RULES.

20 1. This Act takes effect October 1, 2002, and applies to
21 unregistered child care home providers and child development
22 home providers that register or renew registration on or after
23 that date. If a child care home is registered as a family or
24 group child care home as of September 30, 2002, this Act shall
25 apply upon registration renewal.

26 2. The department of human services may adopt emergency
27 rules under section 17A.4, subsection 2, and section 17A.5,
28 subsection 2, paragraph "b", to implement the provisions of
29 this Act and the rules shall be effective immediately upon
30 filing unless the effective date is delayed by the
31 administrative rules review committee, notwithstanding section
32 17A.4, subsection 5, and section 17A.8, subsection 9, or a
33 later date is specified in the rules. Any rules adopted in
34 accordance with this section shall not take effect before the
35 administrative rules review committee reviews the rules. Any

1 rules adopted in accordance with this section shall also be
2 published as a notice of intended action as provided in
3 section 17A.4.

4 EXPLANATION

5 This bill relates to regulation of child care and child
6 development homes and child care centers.

7 Code section 237A.1, providing definitions, is amended in
8 several ways. Under current law, a "child" means a person
9 under age 18. Under the bill, "child" generally means a
10 person under age 13 with an exception to include a person ages
11 13 to 18 that have a developmental disability as defined by
12 federal law.

13 A current exception to the definition of "child care" for
14 after-school programs is expanded to include summer-only
15 programs. A new exception is established for a child whose
16 parent is participating in activities other than employment on
17 the same premises on which the child's care is provided.

18 The definition of "children receiving care on a part-time
19 basis" is stricken. The bill strikes and rewrites the
20 provisions in which the term is used under current law in Code
21 section 237A.3A.

22 The definitions of "family child care home" and "group
23 child care home" are also stricken.

24 Code section 237A.2, relating to licensing of child care
25 centers, is amended to increase the license period from one
26 year to 24 months. A licensee must comply with rules adopted
27 by the department and the department is authorized to inspect
28 a licensed center at any time. Under current law, if a
29 license is denied or revoked, a person cannot own or operate a
30 center for six months and the department cannot act on an
31 application from that person for the same period. The bill
32 extends that period to 12 months. The bill applies the same
33 time period for purposes of registration.

34 The bill amends Code chapter 237A relating to requirements
35 administered by the department of human services affecting

1 home child care providers. Under current law, a family child
2 care home may provide child care to six or fewer children at
3 any one time, along with up to five additional children during
4 inclement weather, and registration with the department is
5 optional. Current law requires a group child care home
6 registration for homes providing care to more than six but
7 fewer than 12 children at any one time, along with up to five
8 additional children during inclement weather. In addition,
9 under Code section 237A.3A, a pilot project provides for four
10 levels of registration within a general child care home
11 category. These requirements are repealed or stricken.

12 The bill reduces the number of children allowed to be cared
13 for before registration is required and eliminates family and
14 group child care home registrations. Unregistered child care
15 is defined as a "child care home" serving no more than three
16 children at any one time. Registration is required for homes
17 that may provide care to four or more children at any one
18 time. The registered providers are termed "child development
19 homes" and the department is directed to develop standards for
20 capacity, provider qualifications, fire safety, and other
21 requirements based upon three categories of care. Initially,
22 the three categories are "A", "B", and "C", as ranked by
23 applying less stringent to more stringent standards.

24 The bill clarifies that the department adopts fire safety
25 rules for registered child care homes while the state fire
26 marshal adopts fire safety rules for child care centers.

27 The bill makes conforming changes in Code chapters 232,
28 relating to juvenile justice; Code chapter 237, relating to
29 foster care; and Code chapter 237A, relating to child care
30 facilities.

31 The bill amends the responsibilities of a child care
32 resource and referral service grantee under Code section
33 237A.26. Responsibility for providing specialized services to
34 employers may include identifying networks of providers for
35 employee groups and assisting with employer-supported quality

1 improvement initiatives. A grantee must also provide
2 assistance to public and private funders of child care at the
3 community level.

4 The bill repeals section 237A.27 which established a
5 special regulatory classification for crisis child care.

6 The bill includes transition provisions allowing a child
7 development home provider who is providing child care to a
8 greater number of children than is allowed for the provider's
9 registration category to continue to provide child care to
10 those children until the children become old enough or are no
11 longer receiving the care.

12 The bill takes effect October 1, 2002, and is applicable to
13 child care home providers registered prior to that date upon
14 renewal of the registration. The department is authorized to
15 adopt rules in accordance with emergency procedures,
16 eliminating notice and comment periods, but following review
17 by the administrative rules review committee.

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SENATE FILE 2205

S-5100

- 1 Amend Senate File 2205 as follows:
2 1. Page 5, by striking line 6 and inserting the
3 following: "capacity of the three categories. The
4 department of human services, in consultation with the
5 Iowa department of public health, shall adopt".
6 2. Page 5, by striking lines 27 through 29.

By MAGGIE TINSMAN

S-5100 FILED MARCH 4, 2002

Adopted
3-11-02 P. 557

SENATE FILE 2205

S-5120

- 1 Amend Senate File 2205 as follows:
2 1. Page 2, line 16, by striking the word "three"
3 and inserting the following: "five".
4 2. Page 2, line 23, by striking the word "four"
5 and inserting the following: "six".
6 3. Page 3, line 26, by striking the word "three"
7 and inserting the following: "five".
8 4. Page 5, lines 33 and 34, by striking the words
9 "to be" and inserting the following: "as being".
10 5. Page 6, line 4, by striking the word "from"
11 and inserting the following: "by".
12 6. Page 6, line 8, by striking the word "from"
13 and inserting the following: "by".

By MAGGIE TINSMAN
NANCY BOETTGER
KITTY REHBERG

S-5120 FILED MARCH 6, 2002

Adopted
3-11-02
(P. 556)

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H- 3/18/02 Do Pass
3/21/02 UNFINISHED BUSINESS CALENDAR

SENATE FILE 2205
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SF 2097)

(AS AMENDED AND PASSED BY THE SENATE MARCH 11, 2002)

- _____ - New Language by the Senate
- * - Language Stricken by the Senate

Passed Senate, ^(P. 994) Date 4-8-02 Passed House, ^(P. 1179) Date 4-4-02
 Vote: Ayes 45 Nays 2 Vote: Ayes 91 Nays 4
 Approved May 2, 2002

A BILL FOR

1 An Act relating to regulation of child care and child development
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S.F. 2205

1 Section 1. Section 232.69, subsection 1, paragraph b,
2 subparagraph (5), Code Supplement 2001, is amended to read as
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4 (5) An employee or operator of a licensed child care
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8 experience success--healthy families Iowa program under
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10 Sec. 2. Section 237.1, subsection 4, paragraph d, Code
11 2001, is amended to read as follows:

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13 development home, or a child care home as defined in section
14 237A.1.

15 Sec. 3. Section 237A.1, subsection 2, Code Supplement
16 2001, is amended to read as follows:

17 2. "Child" means a either of the following:

18 a. A person under-eighteen twelve years of age or younger.

19 b. A person thirteen years of age or older but younger
20 than nineteen years of age who has a developmental disability
21 as defined under the federal Developmental Disabilities
22 Assistance and Bill of Rights Act of 2000, Pub. L. No. 106-
23 402, as codified in 42 U.S.C. § 15002(8).

24 Sec. 4. Section 237A.1, subsection 3, paragraph h, Code
25 Supplement 2001, is amended to read as follows:

26 h. An after school program continuously offered throughout
27 the school year calendar to children who are at least five
28 years of age and are enrolled in school, and attend the
29 program intermittently or a summer-only program for such
30 children. The program must be provided through a nominal
31 membership fee or at no cost.

32 Sec. 5. Section 237A.1, subsection 3, Code Supplement
33 2001, is amended by adding the following new paragraph:

34 NEW PARAGRAPH. n. A program offered to a child whose
35 parent, guardian, or custodian is engaged solely in a

1 recreational or social activity, remains immediately available
2 and accessible on the physical premises on which the child's
3 care is provided, and does not engage in employment while the
4 care is provided.

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

7 4. "Child care center" or "center" means a facility
8 providing child care or preschool services for seven or more
9 children, except when the facility is registered as a child
10 care development home.

11 5. "Child care facility" or "facility" means a child care
12 center, preschool, or a registered child care development
13 home.

14 6. "Child care home" means a person or program providing
15 child care ~~as-a-family-child-care-home-or-a-group-child-care~~
16 home to five or fewer children at any one time that is not
17 registered to provide child care under this chapter, as
18 authorized under section 237A.3.

19 Sec. 7. Section 237A.1, Code Supplement 2001, is amended
20 by adding the following new subsection:

21 NEW SUBSECTION. 6A. "Child development home" means a
22 person or program registered under section 237A.3A that may
23 provide child care to six or more children at any one time.

24 Sec. 8. Section 237A.1, subsections 7 and 10, Code
25 Supplement 2001, are amended by striking the subsections.

26 Sec. 9. Section 237A.2, subsection 2, Code 2001, is
27 amended to read as follows:

28 2. a. A person denied a license under ~~the-provisions-of~~
29 this section shall receive written notice of the denial
30 stating the reasons for denial and shall be provided with an
31 opportunity for an evidentiary hearing.

32 b. ~~Licenses-granted~~ A license issued under this chapter
33 shall be valid for ~~one-year~~ twenty-four months from the date
34 of issuance. A license shall remain valid unless it is
35 revoked or suspended in accordance with the provisions of

1 section 237A.8 or is reduced to a provisional license under
2 subsection 3. The department may inspect a licensed center at
3 any time. A record of the license shall be kept by the
4 department.

5 c. The license shall be posted in a conspicuous place in
6 the center and shall state the particular premises in which
7 child care may be offered and the number of individuals who
8 may be received for care at any one time. A greater number of
9 children than is authorized by the license shall not be kept
10 in the center at any one time.

11 Sec. 10. Section 237A.2, subsection 5, Code 2001, is
12 amended to read as follows:

13 5. If the department has denied or revoked a license
14 because the applicant or person has continually or repeatedly
15 failed to operate a licensed center in compliance with this
16 chapter and rules adopted pursuant to this chapter, the person
17 shall not own or operate a child care center for a period of
18 six twelve months from the date the license is denied or
19 revoked. The department shall not act on an application for a
20 license submitted by the applicant or person during the ~~six-~~
21 month twelve-month period.

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

25 237A.3 CHILD CARE HOMES.

26 A person or program providing child care to five children
27 or fewer at any one time is a child care home provider and is
28 not required to register under section 237A.3A as a child
29 development home. However, the person or program may register
30 as a child development home.

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

34 237A.3A CHILD DEVELOPMENT HOMES.

35 1. REGISTRATION.

1 a. A person shall not establish or operate a child
2 development home unless the person obtains a certificate of
3 registration. The department shall issue a certificate of
4 registration upon receipt of a statement from the person or
5 upon completion of an inspection conducted by the department
6 or a designee of the department verifying that the person
7 complies with applicable rules adopted by the department
8 pursuant to this section and section 237A.12.

9 b. The certificate of registration shall be posted in a
10 conspicuous place in the child development home and shall
11 state the name of the registrant, the registration category of
12 the child development home, the maximum number of children who
13 may be present for child care at any one time, and the address
14 of the child development home. In addition, the certificate
15 shall include a checklist of registration compliances.

16 c. The registration process for a child development home
17 shall be repeated every twenty-four months as provided by
18 rule.

19 d. A person who holds a child foster care license under
20 chapter 237 shall register as a child development home
21 provider in order to provide child care.

22 2. REVOCATION OR DENIAL OF REGISTRATION. If the
23 department has denied or revoked a certificate of registration
24 because a person has continually or repeatedly failed to
25 operate a registered or licensed child care facility in
26 compliance with this chapter and rules adopted pursuant to
27 this chapter, the person shall not operate or establish a
28 registered child development home for a period of twelve
29 months from the date the registration or license was denied or
30 revoked. The department shall not act on an application for
31 registration submitted by the person during the twelve-month
32 period.

33 3. RULES.

34 a. Three categories of standards shall be applicable to
35 child development homes. The initial designations of the

1 categories, which may be revised by the department, shall be
2 "A", "B", and "C", as ranked from less stringent standards and
3 capacity to more stringent standards and capacity. The "C"
4 registration category standards shall require the highest
5 level of provider qualifications and allow the greatest
6 capacity of the three categories. The department of human
7 services, in consultation with the Iowa department of public
8 health, shall adopt rules applying standards to each category
9 specifying provider qualifications and training, health and
10 safety requirements, capacity, amount of space available per
11 child, and other minimum requirements. The capacity
12 requirements shall take into consideration the provider's own
13 children, children who have a mild illness, children receiving
14 part-time child care, and children served as a sibling group
15 in overnight care.

16 b. The rules shall allow a child development home to be
17 registered in a particular category for which the provider is
18 qualified even though the amount of space required to be
19 available for the maximum number of children authorized for
20 that category exceeds the actual amount of space available in
21 that home. However, the total number of children authorized
22 for the child development home at that category of
23 registration shall be limited by the amount of space available
24 per child.

25 c. In consultation with the state fire marshal, the
26 department shall adopt rules relating to the provision of fire
27 extinguishers, smoke detectors, and two exits accessible to
28 children in a child development home.

* 29 4. NUMBER OF CHILDREN.

30 a. In determining the number of children present for child
31 care at any one time in a child development home, each child
32 present in the child development home shall be considered as
33 being provided child care unless the child is described by one
34 of the following exceptions:

35 (1) The child's parent, guardian, or custodian operates or

1 established the child development home and the child is
2 attending school or the child is provided child care full-time
3 on a regular basis by another person.

4 (2) The child has been present in the child development
5 home for more than seventy-two consecutive hours and the child
6 is attending school or the child is provided child care full-
7 time on a regular basis by another person.

8 b. For purposes of determining the number of children
9 present for child care in a child development home, a child
10 receiving foster care from a child development home provider
11 shall be considered to be the child of the provider.

12 Sec. 13. Section 237A.4, Code 2001, is amended to read as
13 follows:

14 237A.4 INSPECTION AND EVALUATION.

15 The department shall make periodic inspections of licensed
16 centers to ensure compliance with licensing requirements
17 provided in this chapter, and the local boards of health may
18 make periodic inspections of licensed centers to ensure
19 compliance with health-related licensing requirements provided
20 in this chapter. The ~~administrator~~ department may inspect
21 records maintained by a licensed center and may inquire into
22 matters concerning these centers and the persons in charge.
23 The ~~administrator~~ department shall require that the center be
24 inspected by the state fire marshal or a designee for
25 compliance with rules relating to fire safety before a license
26 is granted or renewed. The ~~administrator~~ department or a
27 designee may periodically visit registered child care
28 development homes for the purpose of evaluation of an inquiry
29 into matters concerning compliance with rules adopted under
30 section 237A.12. Evaluation of child care development homes
31 under this section may include consultative services provided
32 pursuant to section 237A.6.

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

35 Subject to the provisions of chapter 17A, the ~~administrator~~

1 department shall adopt rules setting minimum standards to
2 provide quality child care in the operation and maintenance of
3 child care centers and registered child ~~care~~ development
4 homes, relating to all of the following:

5 Sec. 15. Section 237A.12, subsection 1, paragraph c, Code
6 2001, is amended to read as follows:

7 c. The adequacy of activity programs and food services
8 available to the children. The ~~administrator~~ department shall
9 not restrict the use of or apply nutritional standards to a
10 lunch or other meal which is brought to the center, child
11 development home, or child care home by a school-age child for
12 the child's consumption.

13 Sec. 16. Section 237A.12, subsection 3, Code 2001, is
14 amended to read as follows:

15 3. Rules relating to fire safety for child care centers
16 shall be adopted under this chapter by the state fire marshal
17 in consultation with the department. Rules adopted by the
18 state fire marshal for a building which is owned or leased by
19 a school district or accredited nonpublic school and used as a
20 child care facility shall not differ from standards adopted by
21 the state fire marshal for school buildings under chapter 100.
22 Rules relating to sanitation shall be adopted by the
23 department in consultation with the director of public health.
24 All rules shall be developed in consultation with the state
25 child care advisory council. The state fire marshal shall
26 inspect the facilities.

27 Sec. 17. Section 237A.13, subsection 2, Code 2001, is
28 amended to read as follows:

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

35 Sec. 18. Section 237A.19, Code 2001, is amended to read as

1 follows:

2 237A.19 PENALTY.

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

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

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

20 237A.20 INJUNCTION.

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

32 Sec. 20. Section 237A.21, subsection 1, Code 2001, is
33 amended to read as follows:

34 1. A state child care advisory council is established
35 consisting of not more than thirty-five members from urban and

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

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

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

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

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

18 Sec. 22. Section 237A.26, subsection 3, paragraph a, Code
19 2001, is amended to read as follows:

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

23 Sec. 23. Section 237A.26, subsection 6, paragraph e, Code
24 2001, is amended to read as follows:

25 e. Provide specialized services to employers, including
26 the provision of resource and referral services to employee
27 groups identified by the employer and the provision of
28 technical assistance to develop employer-supported child care
29 programs. The specialized services may include but are not
30 limited to working with employers to identify networks of
31 recommended registered and licensed child care providers for
32 employee groups and to implement employer-supported quality
33 improvement initiatives among the network providers.

34 Sec. 24. Section 237A.26, subsection 6, paragraph h, Code
35 2001, is amended to read as follows:

1 h. Administer funding designated within the grant to
2 provide a substitute caregiver program for registered child
3 care development homes to provide substitute child care in a
4 home when the home provider is ill, on vacation, receiving
5 training, or is otherwise unable to provide the care.

6 Sec. 25. Section 237A.26, Code 2001, is amended by adding
7 the following new subsection:

8 NEW SUBSECTION. 8. For purposes of improving the quality
9 and consistency of data collection, consultation, and other
10 support to child care home and child development home
11 providers, a resource and referral services agency grantee
12 shall coordinate and assist with publicly and privately funded
13 efforts administered at the community level to provide the
14 support. The support and efforts addressed by a grantee may
15 include but are not limited to community-funded child care
16 home and child development home consultants. Community
17 members involved with the assistance may include but are not
18 limited to the efforts of a community empowerment area board
19 under chapter 28, and of community representatives of
20 education, health, human services, business, faith, and public
21 interests.

22 Sec. 26. Section 237A.30, subsection 1, Code 2001, is
23 amended to read as follows:

24 1. The department shall accept nationally recognized
25 accreditations in identifying and listing high quality child
26 care providers. Any registered family-or-group child
27 development home or licensed child care provider in this state
28 that is accredited in good standing by the national
29 association for the education of young children or the
30 national association for family child care shall be included
31 in the listing.

32 Sec. 27. Section 237A.30, subsection 4, Code 2001, is
33 amended to read as follows:

34 4. Subject to the availability of funding, an eligible
35 holder of the gold seal quality designation receiving an

1 initial or renewal national accreditation may receive a one-
2 time cash award in the year of initial or renewal
3 accreditation on or after July 1, 1999. Holders of the
4 designation who received funding assistance to obtain the
5 initial or renewal national accreditation under a grant
6 administered by the child development coordinating council or
7 as part of being a federal head start program are not eligible
8 for the cash award. Eligible holders of the designation may
9 receive a cash award of two hundred fifty dollars for
10 registered family-and-group-care child development home
11 providers and five hundred dollars for licensed centers.

12 Sec. 28. Section 237A.27, Code 2001, is repealed.

13 Sec. 29. CHILD DEVELOPMENT HOME REGISTRATION -- TRANSITION
14 EXCEPTION. The following transition exception shall apply to
15 child development home providers initially registering under
16 section 237A.3A or renewing a previously issued valid child
17 care home registration on or after October 1, 2002:

18 1. If the provider is providing child care to four infants
19 at the time of registration or renewal, the provider may
20 continue to provide child care to those four infants.
21 However, if the provider no longer provides child care to one
22 or more of the four infants, or one or more of the four
23 infants reaches the age of twenty-four months, the exception
24 authorized in this subsection shall no longer apply. This
25 exception does not affect the overall limitation authorized
26 for the number of children in the child development home
27 category within which the provider is registered.

28 2. If, at the time of registration or renewal, the
29 provider is providing child care to school-age children in
30 excess of the number of school-age children authorized for the
31 provider's registration category, the provider may continue to
32 provide child care to those children and the provider may
33 exceed the total number of children authorized for the
34 category of registration by the number of school-age children
35 in excess of the number authorized for the registration level.

1 This exception is subject to all of the following:

2 a. The provider must comply with the other requirements
3 relating to the number of children for which the provider is
4 authorized to provide child care at that registration
5 category.

6 b. The maximum number of children attributable to the
7 authorization for school-age children at the applicable
8 registration category is five.

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

12 d. If the provider no longer provides child care to an
13 individual school-age child who was receiving child care from
14 the provider at the time of registration under section
15 237A.3A, the excess number of children allowed under this
16 exception shall be reduced accordingly.

17 Sec. 30. EFFECTIVE DATE -- APPLICABILITY -- EMERGENCY
18 RULES.

19 1. This Act takes effect October 1, 2002, and applies to
20 unregistered child care home providers and child development
21 home providers that register or renew registration on or after
22 that date. If a child care home is registered as a family or
23 group child care home as of September 30, 2002, this Act shall
24 apply upon registration renewal.

25 2. The department of human services may adopt emergency
26 rules under section 17A.4, subsection 2, and section 17A.5,
27 subsection 2, paragraph "b", to implement the provisions of
28 this Act and the rules shall be effective immediately upon
29 filing unless the effective date is delayed by the
30 administrative rules review committee, notwithstanding section
31 17A.4, subsection 5, and section 17A.8, subsection 9, or a
32 later date is specified in the rules. Any rules adopted in
33 accordance with this section shall not take effect before the
34 administrative rules review committee reviews the rules. Any
35 rules adopted in accordance with this section shall also be

1 published as a notice of intended action as provided in
2 section 17A.4.

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SENATE FILE 2205

H-8524

1 Amend Senate File 2205, as amended, passed, and
2 reprinted by the Senate, as follows:

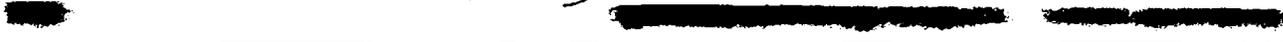
3 1. Page 6, by inserting after line 11 the
4 following:

5 "5. Smoking, as defined in section 142B.1, shall
6 not be permitted during a child development home's
7 hours of operation in an area of the child development
8 home which may be used by the children receiving child
9 care."

By PETERSEN of Polk

H-8524 FILED APRIL 4, 2002

adopted 4-4-02 (p.1179)



18
19

SENATE FILE 2205

H-8532

1 Amend Senate File 2205, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 7, by inserting after line 34, the
4 following:

5 "Sec. ____ Section 237A.13, Code 2001, is amended
6 by adding the following new subsection:

7 NEW SUBSECTION. 5A. A child care facility that
8 previously received child care wrap-around funding,
9 meets the requirements for being a shared vision
10 program except that a shared vision program is not
11 operated in the county in which the facility is
12 located, and is providing a child care wrap-around
13 service that is included in the community empowerment
14 area board's plan for the community empowerment area
15 in which the facility is located shall be deemed to be
16 qualified for child care wrap-around funding."

17 2. By renumbering, redesignating, and correcting
18 internal references as necessary.

By REYNOLDS of Van Buren

H-8532 FILED APRIL 4, 2002

adopted 4-4-02 (p.1179)

35

Legislative Fiscal Bureau

Fiscal Note

SF 2205 - Child Care Regulation (LSB 5525 SV)

Analyst: Sue Lerdal (Phone: (515) 281-7794) (sue.lerdal@legis.state.ia.us)

Fiscal Note Version - New

Description

Senate File 2205 makes various changes to the regulation and licensure of child care facilities and homes.

Assumptions

1. The length of a child care related license is extended from one year to two years.
2. The options for child care registration decrease from the existing seven classifications to three classifications.
3. Senate File 2205 changes the registration requirements for child care entities from caring for seven or more children, under current law, to caring for six or more children. There would be less than 1,000 new entities required to be registered under the Bill, and the transition would result in staggered registrations of new entities as well as currently registered and licensed entities.

Fiscal Impact

The limited number of new registrations required under the Bill would cause a minimal increase in data entry staff. The merger of existing registration classifications and the extension of registration and licensure from a one-year period to a two-year period would result in minimal savings. There would be minimal fiscal impact to the Department of Human Services.

Source

Department of Human Services

/s/ Dennis C Prouty

March 25, 2002

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

HOUSE AMENDMENT TO
SENATE FILE 2205

S-5401

1 Amend Senate File 2205, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 6, by inserting after line 11 the
4 following:

5 "5. Smoking, as defined in section 142B.1, shall
6 not be permitted during a child development home's
7 hours of operation in an area of the child development
8 home which may be used by the children receiving child
9 care."

10 2. Page 7, by inserting after line 34, the
11 following:

12 "Sec. ____ . Section 237A.13, Code 2001, is amended
13 by adding the following new subsection:

14 NEW SUBSECTION. 5A. A child care facility that
15 previously received child care wrap-around funding,
16 meets the requirements for being a shared vision
17 program except that a shared vision program is not
18 operated in the county in which the facility is
19 located, and is providing a child care wrap-around
20 service that is included in the community empowerment
21 area board's plan for the community empowerment area
22 in which the facility is located shall be deemed to be
23 qualified for child care wrap-around funding."

24 3. By renumbering, relettering, or redesignating
25 and correcting internal references as necessary.

RECEIVED FROM THE HOUSE

Senate Concurred 4/8/02

S-5401 FILED APRIL 4, 2002

(P. 994)

SENATE FILE 2205

AN ACT

RELATING TO REGULATION OF CHILD CARE AND CHILD DEVELOPMENT
HOMES AND CHILD CARE CENTERS AND PROVIDING EFFECTIVE DATE
AND APPLICABILITY PROVISIONS.

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

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

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

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

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

Sec. 3. Section 237A.1, subsection 2, Code Supplement 2001, is amended to read as follows:

2. "Child" means a either of the following:

a. A person under-eighteen twelve years of age or younger.

b. A person thirteen years of age or older but younger than nineteen years of age who has a developmental disability as defined under the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, Pub. L. No. 106-402, as codified in 42 U.S.C. § 15002(8).

Sec. 4. Section 237A.1, subsection 3, paragraph h, Code Supplement 2001, is amended to read as follows:

h. An after school program continuously offered throughout the school year calendar to children who are at least five years of age and are enrolled in school, and attend the program intermittently or a summer-only program for such children. The program must be provided through a nominal membership fee or at no cost.

Sec. 5. Section 237A.1, subsection 3, Code Supplement 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. n. A program offered to a child whose parent, guardian, or custodian is engaged solely in a recreational or social activity, remains immediately available and accessible on the physical premises on which the child's care is provided, and does not engage in employment while the care is provided.

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

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

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

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

Sec. 7. Section 237A.1, Code Supplement 2001, is amended by adding the following new subsection:

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

Sec. 8. Section 237A.1, subsections 7 and 10, Code Supplement 2001, are amended by striking the subsections.

Sec. 9. Section 237A.2, subsection 2, Code 2001, is amended to read as follows:

2. a. A person denied a license under the provisions of this section shall receive written notice of the denial stating the reasons for denial and shall be provided with an opportunity for an evidentiary hearing.

b. Licenses-granted A license issued under this chapter shall be valid for one-year twenty-four months from the date of issuance. A license shall remain valid unless it is revoked or suspended in accordance with the provisions of section 237A.8 or is reduced to a provisional license under subsection 3. The department may inspect a licensed center at any time. A record of the license shall be kept by the department.

c. The license shall be posted in a conspicuous place in the center and shall state the particular premises in which child care may be offered and the number of individuals who may be received for care at any one time. A greater number of children than is authorized by the license shall not be kept in the center at any one time.

Sec. 10. Section 237A.2, subsection 5, Code 2001, is amended to read as follows:

5. If the department has denied or revoked a license because the applicant or person has continually or repeatedly failed to operate a licensed center in compliance with this chapter and rules adopted pursuant to this chapter, the person shall not own or operate a child care center for a period of six twelve months from the date the license is denied or revoked. The department shall not act on an application for a license submitted by the applicant or person during the six-month twelve-month period.

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

237A.3 CHILD CARE HOMES.

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

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

237A.3A CHILD DEVELOPMENT HOMES.

1. REGISTRATION.

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

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

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

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

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

3. RULES.

a. Three categories of standards shall be applicable to child development homes. The initial designations of the categories, which may be revised by the department, shall be "A", "B", and "C", as ranked from less stringent standards and capacity to more stringent standards and capacity. The "C" registration category standards shall require the highest level of provider qualifications and allow the greatest capacity of the three categories. The department of human services, in consultation with the Iowa department of public health, shall adopt rules applying standards to each category specifying provider qualifications and training, health and safety requirements, capacity, amount of space available per child, and other minimum requirements. The capacity requirements shall take into consideration the provider's own children, children who have a mild illness, children receiving part-time child care, and children served as a sibling group in overnight care.

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

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

4. NUMBER OF CHILDREN.

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

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

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

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

5. Smoking, as defined in section 142B.1, shall not be permitted during a child development home's hours of operation in an area of the child development home which may be used by the children receiving child care.

Sec. 13. Section 237A.4, Code 2001, is amended to read as follows:

237A.4 INSPECTION AND EVALUATION.

The department shall make periodic inspections of licensed centers to ensure compliance with licensing requirements provided in this chapter, and the local boards of health may make periodic inspections of licensed centers to ensure compliance with health-related licensing requirements provided in this chapter. The administrator department may inspect records maintained by a licensed center and may inquire into matters concerning these centers and the persons in charge. The administrator department shall require that the center be inspected by the state fire marshal or a designee for compliance with rules relating to fire safety before a license is granted or renewed. The administrator department or a designee may periodically visit registered child care development homes for the purpose of evaluation of an inquiry into matters concerning compliance with rules adopted under section 237A.12. Evaluation of child care development homes under this section may include consultative services provided pursuant to section 237A.6.

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

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

Sec. 15. Section 237A.12, subsection 1, paragraph c, Code 2001, is amended to read as follows:

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

Sec. 16. Section 237A.12, subsection 3, Code 2001, is amended to read as follows:

3. Rules relating to fire safety for child care centers shall be adopted under this chapter by the state fire marshal in consultation with the department. Rules adopted by the state fire marshal for a building which is owned or leased by a school district or accredited nonpublic school and used as a child care facility shall not differ from standards adopted by the state fire marshal for school buildings under chapter 100. Rules relating to sanitation shall be adopted by the department in consultation with the director of public health. All rules shall be developed in consultation with the state child care advisory council. The state fire marshal shall inspect the facilities.

Sec. 17. Section 237A.13, subsection 2, Code 2001, is amended to read as follows:

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

Sec. 18. Section 237A.13, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. A child care facility that previously received child care wrap-around funding, meets the requirements for being a shared vision program except that a shared vision program is not operated in the county in which the facility is located, and is providing a child care wrap-around service that is included in the community empowerment area board's plan for the community empowerment area in which the facility is located shall be deemed to be qualified for child care wrap-around funding.

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

237A.19 PENALTY.

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

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

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

237A.20 INJUNCTION.

A person who establishes, conducts, manages, or operates a center without a license or a child care development home without a certificate of registration, if registration is required under section ~~237A.3~~ 237A.3A, may be restrained by temporary or permanent injunction. A person who has been

convicted of a crime against a person or a person with a record of founded child abuse may be restrained by temporary or permanent injunction from providing unregistered, registered, or licensed child care. The action may be instituted by the state, the county attorney, a political subdivision of the state, or an interested person.

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

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

Sec. 22. Section 237A.21, subsection 3, paragraphs a, e, and f, Code 2001, are amended to read as follows:

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

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

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

Sec. 23. Section 237A.26, subsection 3, paragraph a, Code 2001, is amended to read as follows:

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

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

e. Provide specialized services to employers, including the provision of resource and referral services to employee groups identified by the employer and the provision of

technical assistance to develop employer-supported child care programs. The specialized services may include but are not limited to working with employers to identify networks of recommended registered and licensed child care providers for employee groups and to implement employer-supported quality improvement initiatives among the network providers.

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

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

Sec. 26. Section 237A.26, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 8. For purposes of improving the quality and consistency of data collection, consultation, and other support to child care home and child development home providers, a resource and referral services agency grantee shall coordinate and assist with publicly and privately funded efforts administered at the community level to provide the support. The support and efforts addressed by a grantee may include but are not limited to community-funded child care home and child development home consultants. Community members involved with the assistance may include but are not limited to the efforts of a community empowerment area board under chapter 28, and of community representatives of education, health, human services, business, faith, and public interests.

Sec. 27. Section 237A.30, subsection 1, Code 2001, is amended to read as follows:

1. The department shall accept nationally recognized accreditations in identifying and listing high quality child care providers. Any registered ~~family-or-group~~ child development home or licensed child care provider in this state that is accredited in good standing by the national association for the education of young children or the

national association for family child care shall be included in the listing.

Sec. 28. Section 237A.30, subsection 4, Code 2001, is amended to read as follows:

4. Subject to the availability of funding, an eligible holder of the gold seal quality designation receiving an initial or renewal national accreditation may receive a one-time cash award in the year of initial or renewal accreditation on or after July 1, 1999. Holders of the designation who received funding assistance to obtain the initial or renewal national accreditation under a grant administered by the child development coordinating council or as part of being a federal head start program are not eligible for the cash award. Eligible holders of the designation may receive a cash award of two hundred fifty dollars for registered family-and-group-care child development home providers and five hundred dollars for licensed centers.

Sec. 29. Section 237A.27, Code 2001, is repealed.

Sec. 30. CHILD DEVELOPMENT HOME REGISTRATION -- TRANSITION EXCEPTION. The following transition exception shall apply to child development home providers initially registering under section 237A.3A or renewing a previously issued valid child care home registration on or after October 1, 2002:

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

2. If, at the time of registration or renewal, the provider is providing child care to school-age children in excess of the number of school-age children authorized for the provider's registration category, the provider may continue to

provide child care to those children and the provider may exceed the total number of children authorized for the category of registration by the number of school-age children in excess of the number authorized for the registration level. This exception is subject to all of the following:

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

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

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

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

Sec. 31. EFFECTIVE DATE -- APPLICABILITY -- EMERGENCY RULES.

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

2. The department of human services may adopt emergency rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this Act and the rules shall be effective immediately upon filing unless the effective date is delayed by the administrative rules review committee, notwithstanding section 17A.4, subsection 5, and section 17A.8, subsection 9, or a later date is specified in the rules. Any rules adopted in accordance with this section shall not take effect before the

administrative rules review committee reviews the rules. Any rules adopted in accordance with this section shall also be published as a notice of intended action as provided in section 17A.4.

MARY E. KRAMER
President of the Senate

BRENT SIEGRIST
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2205, Seventy-ninth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved May 2, 2002

THOMAS J. VILSACK
Governor