

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2438

Session of
1980

INTRODUCED BY MESSRS. MADIGAN, ZORD, BURD, GRUPPO AND PETERSON,
MARCH 26, 1980

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 16, 1980

AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An
2 act to consolidate, editorially revise, and codify the public
3 welfare laws of the Commonwealth," excluding certain family
4 residences from the terms children's institutions ~~and child~~ <—
5 ~~day care center~~. ELIMINATING LICENSURE OF FAMILY DAY CARE <—
6 HOMES AND PROVIDING FOR A REGISTRATION SYSTEM OF FAMILY DAY
7 CARE HOMES.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. The definition of "children's institutions" in
11 section 901 ~~and~~, the definition of "~~child day care center~~" <—
12 "FAMILY DAY CARE HOME" in section 1001 AND SECTION 1051, act of <—
13 June 13, 1967 (P.L.31, No.21), known as the "Public Welfare
14 Code," are amended to read:

15 Section 901. Definitions.--As used in this article--

16 "Children's institutions" means any incorporated or
17 unincorporated organization, society, corporation or agency,
18 public or private, which may receive or care for children, or
19 place them in foster family homes, either at board, wages or

1 free; or any individual who, for hire, gain or reward, receives
2 for care a child, unless he is related to such child by blood or
3 marriage within the second degree; or any individual, not in the
4 regular employ of the court or of an organization, society,
5 association or agency, duly certified by the department, who in
6 any manner becomes a party to the placing of children in foster
7 homes, unless he is related to such children by blood or
8 marriage within the second degree, or is the duly appointed
9 guardian thereof. The term shall not include a family residence <—
10 wherein eight or less children are babysat. FAMILY DAY CARE HOME <—
11 IN WHICH CARE IS PROVIDED IN LIEU OF PARENTAL CARE TO SIX OR
12 LESS CHILDREN FOR PART OF A TWENTY-FOUR HOUR DAY.

13 * * *

14 Section 1001. Definitions.--As used in this article--

15 * * *

16 ~~"Child day care center" means any premises operated for~~ <—
17 ~~profit in which child day care is provided simultaneously for~~
18 ~~seven or more children who are not relatives of the operator,~~
19 ~~except such centers operated under social service auspices or in~~
20 ~~a family residence wherein eight or less children are babysat.~~

21 * * *

22 ~~Section 2. This act shall take effect immediately.~~

23 ["FAMILY DAY CARE HOME" MEANS ANY PREMISES OPERATED FOR <—
24 PROFIT IN WHICH CHILD DAY CARE IS PROVIDED SIMULTANEOUSLY TO
25 MORE THAN THREE UNRELATED CHILDREN AND TO FEWER THAN SEVEN
26 CHILDREN WHO ARE NOT RELATIVES OF THE OPERATOR, EXCEPT SUCH
27 HOMES OPERATED UNDER SOCIAL SERVICE AUSPICES.]

28 * * *

29 SECTION 1051. DEFINITION.--AS USED IN THIS SUBARTICLE--

30 "PRIVATE INSTITUTION" MEANS ANY OF THE FOLLOWING FACILITIES

1 BY WHATEVER TERM KNOWN AND IRRESPECTIVE OF THE AGE GROUP SERVED:
2 MENTAL HOSPITAL, INSTITUTION FOR THE MENTALLY DEFECTIVE, DAY
3 CARE CENTER, [FAMILY DAY CARE HOME,] NURSING HOME, HOSPITAL,
4 BOARDING HOME, PERSONAL CARE HOME, AND OTHER SIMILAR INSTITUTION
5 WHICH IS OPERATED FOR PROFIT AND WHICH REQUIRES A LICENSE ISSUED
6 BY THE DEPARTMENT.

7 SECTION 2. THE ACT IS AMENDED BY ADDING TO ARTICLE X A
8 SUBDIVISION TO READ:

9 ARTICLE X

10 DEPARTMENTAL POWERS AND DUTIES AS TO LICENSING

11 * * *

12 (C) REGISTRATION PROVISIONS

13 SECTION 1070. DEFINITIONS.--AS USED IN THIS ARTICLE.--

14 "CHILD DAY CARE" MEANS CARE IN LIEU OF PARENTAL CARE GIVEN
15 FOR PART OF THE TWENTY-FOUR HOUR DAY TO CHILDREN AWAY FROM THEIR
16 OWN HOMES.

17 "FAMILY DAY CARE HOME" MEANS ANY HOME IN WHICH CHILD DAY CARE
18 IS PROVIDED AT ANY ONE TIME TO FOUR THROUGH SIX CHILDREN WHO ARE
19 NOT RELATIVES OF THE CAREGIVER.

20 SECTION 1071. OPERATION WITHOUT REGISTRATION CERTIFICATE
21 PROHIBITED.--NO INDIVIDUAL SHALL OPERATE A FAMILY DAY CARE HOME
22 WITHOUT A REGISTRATION CERTIFICATE ISSUED THEREFOR BY THE
23 DEPARTMENT.

24 SECTION 1072. APPLICATION FOR REGISTRATION CERTIFICATE.--(A)
25 ANY INDIVIDUAL DESIRING TO SECURE A REGISTRATION CERTIFICATE
26 SHALL SUBMIT AN APPLICATION THEREFOR TO THE DEPARTMENT UPON
27 FORMS PREPARED AND FURNISHED BY THE DEPARTMENT, AND, AT THE SAME
28 TIME, SHALL CERTIFY IN WRITING THAT HE/SHE AND THE FACILITY
29 NAMED IN THE APPLICATION ARE IN COMPLIANCE WITH APPLICABLE
30 DEPARTMENT REGULATIONS.

1 (B) APPLICATION FOR RENEWAL OF THE REGISTRATION CERTIFICATE
2 SHALL BE MADE EVERY TWO YEARS IN THE SAME MANNER AS APPLICATION
3 FOR THE ORIGINAL REGISTRATION CERTIFICATE.

4 (C) NO APPLICATION FEE SHALL BE REQUIRED TO REGISTER A
5 FAMILY DAY CARE HOME.

6 SECTION 1073. ISSUANCE OF REGISTRATION CERTIFICATE.--UPON
7 RECEIPT OF AN APPLICATION AND THE APPLICANT'S WRITTEN
8 CERTIFICATION OF COMPLIANCE WITH APPLICABLE DEPARTMENT
9 REGULATIONS, THE DEPARTMENT SHALL ISSUE A REGISTRATION
10 CERTIFICATE TO THE APPLICANT FOR THE PREMISES NAMED IN THE
11 APPLICATION. A REGISTRATION CERTIFICATE SHALL BE ISSUED FOR A
12 PERIOD OF TWO YEARS.

13 SECTION 1074. VISITATION AND INSPECTION.--THE DEPARTMENT OR
14 AUTHORIZED AGENT OF THE DEPARTMENT SHALL HAVE THE RIGHT TO
15 ENTER, VISIT AND INSPECT ON A RANDOM SAMPLE BASIS, UPON
16 COMPLAINT, OR UPON REQUEST OF THE CAREGIVER, ANY FAMILY DAY CARE
17 HOME REGISTERED OR REQUIRING REGISTRATION UNDER THIS ARTICLE AND
18 SHALL HAVE FREE AND FULL ACCESS TO THE PREMISES, WHERE CHILDREN
19 ARE CARED FOR, ALL RECORDS OF THE PREMISES WHICH RELATE TO THE
20 CHILDREN'S CARE, AND TO THE CHILDREN CARED FOR THEREIN AND FULL
21 OPPORTUNITY TO SPEAK WITH OR OBSERVE SUCH CHILDREN.

22 SECTION 1075. RECORDS.--EVERY INDIVIDUAL WHO OPERATES A
23 FAMILY DAY CARE HOME REGISTERED UNDER THIS ARTICLE SHALL KEEP
24 AND MAINTAIN SUCH RECORDS AS REQUIRED BY THE DEPARTMENT.

25 SECTION 1076. REGULATIONS.--THE DEPARTMENT IS HEREBY
26 AUTHORIZED AND EMPOWERED TO ADOPT REGULATIONS ESTABLISHING
27 MINIMUM AND REASONABLE STANDARDS FOR THE OPERATION OF FAMILY DAY
28 CARE HOMES AND THE ISSUANCE OF REGISTRATION CERTIFICATES. THESE
29 REGULATIONS WILL ESTABLISH THE MINIMUM STANDARDS OF SAFETY AND
30 CARE WHICH WILL BE REQUIRED IN FAMILY DAY CARE HOMES AND WILL

1 RECOGNIZE THE VITAL ROLE WHICH PARENTS AND GUARDIANS PLAY IN
2 MONITORING THE CARE PROVIDED IN FAMILY DAY CARE HOMES.

3 SECTION 1077. TECHNICAL ASSISTANCE.--THE DEPARTMENT MAY
4 OFFER AND PROVIDE UPON REQUEST TECHNICAL ASSISTANCE TO
5 CAREGIVERS TO ASSIST THEM IN COMPLYING WITH DEPARTMENT
6 REGULATIONS.

7 SECTION 1078. OPERATION WITHOUT REGISTRATION CERTIFICATE.--
8 NO INDIVIDUAL SHALL OPERATE A FAMILY DAY CARE HOME WITHOUT
9 HAVING A REGISTRATION CERTIFICATE. ANY INDIVIDUAL OPERATING A
10 FAMILY DAY CARE HOME WITHOUT A REGISTRATION CERTIFICATE, AFTER
11 BEING NOTIFIED THAT SUCH A REGISTRATION IS REQUIRED, SHALL UPON
12 CONVICTION PAY A FINE OF NOT LESS THAN TWENTY DOLLARS (\$20) NOR
13 MORE THAN ONE HUNDRED DOLLARS (\$100) AND COSTS OF PROSECUTION.
14 EACH DAY OF OPERATING WITHOUT A REGISTRATION CERTIFICATE SHALL
15 CONSTITUTE A SEPARATE OFFENSE.

16 SECTION 1079. DENIAL, NON-RENEWAL, OR REVOCATION.--(A)
17 WHENEVER A CAREGIVER DOES NOT CERTIFY COMPLIANCE OR WHENEVER
18 UPON INSPECTION THE DEPARTMENT OBSERVES NONCOMPLIANCE WITH
19 APPLICABLE DEPARTMENT REGULATIONS, THE DEPARTMENT SHALL GIVE
20 WRITTEN NOTICE THEREOF TO THE OFFENDING PERSON. SUCH NOTICE
21 SHALL DENY ISSUANCE OF A REGISTRATION CERTIFICATE, DENY RENEWAL
22 OF A REGISTRATION CERTIFICATE, OR SHALL REQUIRE THE OFFENDING
23 PERSON TO TAKE ACTION TO BRING THE FACILITY INTO COMPLIANCE WITH
24 REGULATIONS.

25 (B) THE DEPARTMENT SHALL REFUSE TO ISSUE OR RENEW A
26 REGISTRATION CERTIFICATE OR SHALL REVOKE A REGISTRATION
27 CERTIFICATE FOR ANY OF THE FOLLOWING REASONS:

28 (1) NONCOMPLIANCE WITH DEPARTMENT REGULATIONS;

29 (2) FRAUD OR DECEIT IN THE SELF-CERTIFICATION PROCESS;

30 (3) LENDING, BORROWING, OR USING THE REGISTRATION

1 CERTIFICATE OF ANOTHER CAREGIVER, OR IN ANY WAY KNOWINGLY AIDING
2 THE IMPROPER ISSUANCE OF A REGISTRATION CERTIFICATE;

3 (4) GROSS INCOMPETENCE, NEGLIGENCE, OR MISCONDUCT IN
4 OPERATING THE FACILITY;

5 (5) MISTREATING OR ABUSING CHILDREN CARED FOR IN THE
6 FACILITY.

7 SECTION 1080. EMERGENCY CLOSURE.--IF THE DEPARTMENT, OR
8 AUTHORIZED AGENT OF THE DEPARTMENT OBSERVES A CONDITION AT A
9 FAMILY DAY CARE HOME WHICH PLACES THE CHILDREN CARED FOR THEREIN
10 IN IMMEDIATE LIFE-THREATENING DANGER, THE DEPARTMENT SHALL
11 MAINTAIN AN ACTION IN THE NAME OF THE COMMONWEALTH FOR AN
12 INJUNCTION OR OTHER PROCESS RESTRAINING OR PROHIBITING THE
13 OPERATION OF THE FACILITY.

14 SECTION 3. THIS ACT SHALL TAKE EFFECT ON JANUARY 1, 1981.